

HCW

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG
Route 12
Frederick, Maryland 21701
Phone: (301) 473-8186

Plaintiff,

v.

GRIFFIN BELL, individually and as
Attorney General of the United States,
U.S. Department of Justice
Constitution Avenue & Tenth Street, N.W.
Washington, D.C. 20530

BENJAMIN R. CIVILETTI, individually and
as Acting Deputy Attorney General,
U.S. Department of Justice, Room 2107
Washington, D.C. 20530

QUINLAN SHEA, JR., individually and as
Director, Office of Privacy and Infor-
mation Appeals, Room 4310, U.S. Depart-
ment of Justice, Washington, D.C. 20530.

CLARENCE M. KELLEY, individually and as
Director, Federal Bureau of Investigation,
J. Edgar Hoover Building
Pennsylvania Avenue & Tenth Street, N.W.

Defendants

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77- 2155

C.A. No. _____

C O M P L A I N T

[Preliminary and Permanent Injunction,
Declaratory Judgment, and Mandamus]

Plaintiff, for his complaint herein, alleges as follows:

I. JURISDICTION

1. Jurisdiction is conferred on this Court by the Freedom of
Information Act, 5 U.S.C. § 552; the Administrative Procedure Act,

5 U.S.C. §§ 702-704; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (action to compel federal officer to perform duty); 28 U.S.C. § 1651 (All Writs Act); and 28 U.S.C. §§ 2201-2202 (declaratory judgment).

II. PARTIES

2. Plaintiff is HAROLD WEISBERG, an author and journalist who resides at Route 12, Frederick, Maryland. For the past fourteen years Weisberg has devoted himself to an intensive study of political assassinations. He is widely recognized as the foremost authority on the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr. The government has itself recognized him as an expert on both subjects. During the course of one of his Freedom of Information Act lawsuits, Weisberg v. Department of Justice, et al., Civil Action No. 75-226, the government told the court that Weisberg probably knows more about the assassination of President Kennedy than anyone in the FBI. In another FOIA suit brought by Weisberg, the government has actually hired him to act as a consultant advising it on the unjustifiable excisions made by the FBI when it was processing his request for King assassination documents.

3. Weisberg's principal focus has been upon the ways in which basic American institutions--law enforcement agencies, courts, the press--have responded, or failed to respond, to these crises. He is author of one book on the assassination of Dr. King: Frame-Up: The Martin Luther King/James Earl Ray Case (Outerbridge & Dienstfry, 1971). He is author of six published books on the assassination of President Kennedy: Whitewash: The Report on the Warren Report; Whitewash II: The FBI-Secret Service Coverup; Photographic Whitewash: Suppressed Kennedy Assassination Pictures; Whitewash IV: Top Secret JFK Assassination Transcript; Oswald in New Orleans: Case for Conspiracy with the CIA; and

Post Mortem: JFK Assassination Cover-Up Smashed! Whitewash was originally privately published by Weisberg himself in August, 1965. After it sold approximately 25,000 copies in this privately published edition, Dell Publishing Company bought the rights to it and reissued it in paperback with an initial printing of 250,000 copies. It went through four printings with Dell and became a best seller. Dell also published Whitewash II.

4. Despite his success as an author and publisher, Weisberg has received precariously little income over the past fourteen years. In 1963 Weisberg and his wife were driven out of a prosperous and growing business by military helicopter flights over their poultry farm. Since then they have lived in poverty. Weisberg has no regular income. His gross income for the third quarter of 1977 was less than \$650.00. What income he does earn comes from the sale of his privately published books, which are stocked in the basement of his home, and an occasional lecture or consultancy on political assassinations. In the past years he has expended what for him are enormous sums of money buying government records which he has obtained under the Freedom of Information Act. This includes, for example, over \$2,700 paid out to the FBI for copies of its records pertaining to the assassination of Dr. King and \$500 obtained from him by the Central Intelligence Agency's fraudulent representation that it was required as a down payment on the estimate search and copying costs which would be incurred in responding to his request for the CIA's records on the King assassination. During this period he has also paid out several hundred dollars in order to take the depositions of present and former FBI agents with knowledge of the scientific tests performed in the FBI's investigation into President Kennedy's assassination, an undertaking which was done pursuant to the mandate of

the United States Court of Appeals in Weisberg v. Department of Justice, 177 U.S.App.D.C., 543 F. 2d 161 (1976).

5. Weisberg's work relies heavily upon government records, particularly those which the government has ignored or suppressed. He reprints many of the more important documents in facsimile in order that the public may have access to what the government, and often the news media as well, has not provided them. The general public and the news media frequently have no practical or economic means of access to such records or the information they contain except through Weisberg's books or personal contact with him. Weisberg has made arrangements to donate his extensive files on these assassinations and other important historical subjects to the University of Wisconsin--Stevens Point.

6. Weisberg makes the records he obtains available to students, scholars, other authors, and members of the news media, often at his own expense. Because his knowledge of the King and Kennedy assassinations is unparalleled, respected reporters rely on his information and evaluation of documents and developments pertaining to these assassinations. (See Exhibits 1-3, the affidavits of Les Whitten, Howard Roffman, and Professor David Wrone)

7. In addition to having little income, Weisberg is 64 years old and has serious health problems, including thrombo-phlebitis and a sub-clavian arterial steal. This prevents him from being able to journey to Washington, D.C. except on special occasions, and then only with great difficulty and waste of time.

8. Defendant GRIFFIN BELL is Attorney General of the United States. In his official capacity, defendant Bell is responsible for seeing that the Department of Justice meets its obligations under the Freedom of Information Act.

9. Defendant BENJAMIN CIVILETTI is Acting Deputy Attorney General. In his official capacity, defendant Civiletti is charged

by Department of Justice regulations with determining whether search fees and copying charges for records requested under the Freedom of Information Act are to be waived or reduced because furnishing the information primarily benefits the general public.

10. Defendant QUINLAN J. SHEA, JR. is Director, Office of Privacy and Information Appeals, Department of Justice. In his official capacity, defendant Shea has been delegated the responsibility of determining whether or not a given FOIA requestor is entitled to a waiver or reduction of search fees and copying charges.

11. Defendant CLARENCE M. KELLEY is Director of the Federal Bureau of Investigation. In his official capacity, defendant Kelley is responsible for seeing that the Federal Bureau of Investigation meets its obligations under the Freedom of Information Act. The FBI has possession of some 80,000 pages of FBI Headquarters' records pertaining to the assassination of President Kennedy. On December 7, 1977, the FBI made 40,001 pages of these records available to persons willing and able to study them at a reading room in the J. Edgar Hoover Building and also sold them to certain news organizations able to purchase them. On information and belief, the FBI intends to make the remaining 40,000 pages of these documents available in the same fashion sometime in January, 1977.

III. BACKGROUND TO LAWSUIT

12. Weisberg's books have been severely critical of the performance of government agencies responsible for investigating the murders of President Kennedy and Dr. King. Government agencies, particularly the Federal Bureau of Investigation, have acted unlawfully to prevent, obstruct, and delay Weisberg's access to government records on these subjects.

13. Two weeks after James Earl Ray pled guilty to the murder of Dr. Martin Luther King, Jr., Weisberg requested that the FBI provide him with information about Dr. King's assassination and Ray's involvement in it. FBI records recently obtained by Weisberg show that former FBI Director J. Edgar Hoover approved a policy of not responding to Weisberg's requests. (See Exhibit 4, an October, 1969 memorandum from Al Rosen to Cartha DeLoach, the Number 3 man in the FBI hierarchy)

14. Other records recently obtained by Weisberg show that the FBI's anti-Weisberg policy extended to the Department of Justice as well. Thus, when the Department of Justice, after months of obstructionism, finally faced up to the fact that it could not successfully defend against Weisberg's suit for the public court records introduced in evidence at James Earl Ray's extradition hearing in London, England, it released the records to Weisberg but advised the FBI that: ". . . in view of the fact that the Department had released the documents to Weisberg the Department did not wish Weisberg to make a profit from his possession of the documents and, accordingly, has decided to make similar copies available to the press and others who might desire them." (Exhibit 5, June 24, 1970 memorandum from T.E. Bishop to Cartha DeLoach)

15. The lengths to which government agencies have gone to deny Weisberg information to which he is entitled under the Freedom of Information Act is further demonstrated by the fact that the National Archives, the Secret Service, and the Department of Justice colluded in transferring a record from the Secret Service to the National Archives to keep Weisberg from getting it. Yet the Secret Service admitted in its correspondence with the National Archives that it had no grounds for withholding it from Weisberg under the Freedom of Information Act. (Exhibit 6, November 13, 1970 letter from Thomas J. Kelley, Assistant Director,

United States Secret Service, to Dr. James B. Rhoads, Archivist of the United States.

16. In September, 1976, Weisberg testified at an evidentiary hearing held in his Freedom of Information Act suit for King assassination materials, Weisberg v. Department of Justice, Civil Action No. 75-1996, that the Department of Justice had not complied with some twenty-five information requests he had made, some of them dating to the late 1960's. His testimony on this was uncontradicted.

17. On January 1, 1969, Weisberg requested photographs taken by James W. Powell, Special Agent, 112th INTC, Army Intelligence Corps., Dallas, Texas, who was at the scene when President Kennedy was shot in Dealey Plaza. On December 2, 1970, Weisberg renewed his request for the Powell photographs and any reports by or about Powell. He enclosed a completed DJ-118 form and, as required by Departmental regulation, a check for \$3.00. The Department cashed his check but did not send any records, photographic or otherwise. One Powell photograph was released to another requestor in 1975. Despite the fact that Departmental representatives were present when Weisberg testified to this in September, 1976, he still has not been furnished any Powell records pursuant to this request, nor has his \$3.00 check been refunded.

18. On October 27, 1975, Weisberg requested copies of the FBI's Central Headquarters' files on Lee Harvey Oswald. This request has not been complied with, nor has the FBI responded to a large number of other requests that Weisberg has made for FBI documents pertaining to the assassination of President Kennedy.

19. On December 7, 1977 the FBI made 40,001 pages of FBI files on President Kennedy's assassination available to persons willing and able to come to an FBI reading room in the J. Edgar Hoover Building; it also sold some or all of these records to persons or organizations able to purchase them at ten cents a

a page. On information and belief, these records contained materials pertinent to Weisberg's numerous information requests. Although Weisberg's requests undoubtedly antedate those made by some, and perhaps all, of the requestors who were provided with copies of these records, copies have not been provided Weisberg.

20. The FBI has failed to process Weisberg's Freedom of Information Act requests in accordance with the mandate of the United States Court of Appeals in Open America v. Watergate Special Prosecution Force, 178 U.S.App.D.C. 308, 547 F. 2d 605 (1976). This FBI's flagrant violation of the Open America decision has denied Weisberg his rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution. The failure to promptly and properly process his information requests has done irreparable harm to Weisberg. Specifically, it has: a) deprived him of the opportunity to commercially profit from the use of the newly released records and the information contained in them in his books, interviews, lectures, and consultancies on this subject; and, b) it has damaged his reputation and value as the one person who has read and evaluated all publicly available records on the Kennedy assassination and who is best able to discern the meaning and significance of records released by the government.

21. In addition, the manner in which the FBI has chosen to make these 80,000 pages of documents available represents an exploitation of the Freedom of Information Act for propaganda purposes, a result which is exactly opposite the intent of the Act. The release of 40,000 pages to representatives of the news media at one time inevitably resulted in a spate of one-day sensations which misinformed the public. This inevitable result was worsened by the fact that Weisberg, having been deprived of these records, was unable to properly perform his role as advisor to news media

representatives who do not have the background or the time to be able to evaluate records pertaining to the Kennedy assassination when released in unmanageable 40,000 page batches.

23. On November 19, 1977, Weisberg requested that he be granted a waiver of all search fees and copying costs so that copies of the FBI records on the Kennedy assassination would be made available to him without charge. (Exhibit 7) There has been no response to this request.

24. Unless Weisberg is granted a waiver of copying charges before the next 40,000 pages are released, and unless the Director of the FBI is enjoined from withholding copies of said records from Weisberg at the same time he provides them to other requestors, Weisberg will again suffer irreparable damage of the nature specified in ¶20 above, and the public interest in accurate information on the subject of President Kennedy's assassination will also again be harmed.

WHEREFORE, plaintiff prays:

1. That defendants Bell, Civiletti, and Shea be preliminarily enjoined from further withholding a determination of his November 19, 1977 request for a waiver of all search fees and copying costs;

2. That defendant Kelley be preliminarily enjoined from withholding the remaining batch of 40,000 pages of FBI Headquarters records on the assassination of President Kennedy from Weisberg until after the FBI has made them available to other requestors;

3. That the court declare that plaintiff's Freedom of Information Act requests have not been, and are not being, processed in accordance with Open America; that plaintiff's rights under the First, Fifth, and Fourteenth Amendments have been violated by

by this failure to process his information requests in accordance with Open America; and that he has suffered irreparable harm as a consequence.

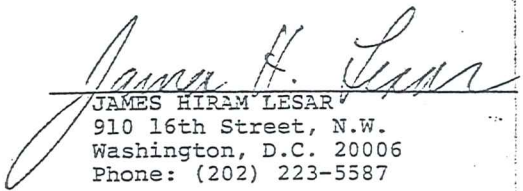
4. That the Court declare that plaintiff is entitled to waiver of search fees and copying costs as requested by his November 19, 1977 letter to the Deputy Attorney General, and that any denial of said request is arbitrary and capricious;

5. That the Court shall issue an order in the nature of mandamus compelling defendants Bell, Civiletti, and Shea to determine by January 3, 1978 whether plaintiff is entitled to a waiver of search fees and copying costs as requested in his letter to the Deputy Attorney General of November 19, 1977;

6. That the Court shall issue an order in the nature of mandamus requiring defendant Kelley to provide copies of all FBI Headquarters records on the assassination of President Kennedy to plaintiff at his residence in Frederick, Maryland no later than the date on which the next batch of said records is made available to other requestors.

7. That the Court shall award plaintiff reasonable attorney fees and the cost of bringing this action; and

8. That the Court order such further relief as it may deem just and equitable.


JAMES HIRAM LESAR
910 16th Street, N.W.
Washington, D.C. 20006
Phone: (202) 223-5587

Attorney for Plaintiff

Exhibit 1

AFFIDAVIT

I, Leslie H. Whitten, the undersigned, residing at 114 Eastmoor Drive, Silver Spring, Md., 20901, do swear and attest:

1. That I am a newspaper reporter and share the byline with Jack Anderson on the Washington Merry-Go-Round, the world's most widely syndicated news column; that I have worked fulltime with Anderson for eight years; that prior to that I have worked as a newsman, inter alia, with the Hearst Newspapers, as assistant bureau chief in Washington, The Washington Post, United Press International, International News Service; that I have been a newsman for 26 years; that I have won awards from the Washington Newspaper Guild, the California Health Association, the Disabled American Veterans, the Humane Society of the United States, the American Civil Liberties Union, among others.

2. That I have written voluminously for newspapers of general circulation about the two Kennedy assassinations, the Martin Luther King, Jr. assassination; that I have pursued many avenues related to both assassinations, including investigations of various CIA, FBI and other activities; grand jury probes, both state and federal; trials, hearings and diverse other offshoots of the events; that I have written extensively about other matters as an investigative reporter.

3. That beginning with the publication of Harold Weisberg's White Wash in 1966, I have had the occasion to consult with Weisberg on stories, theories and avenues to pursue in my work on the King, two Kennedy assassinations and a host of related matters.

4. That while I disagree vigorously with his theories on many aspects of these assassinations, I have found his research invaluable and even vital in pursuing the news; that he is reliable and accurate and his assessments of the importance of documents he has provided me and I have turned up on my own have been extraordinary; that I have found him uniquely reliable among the so-called "critics."

5. That Weisberg, on dozens of occasions, has cut through government red tape, using his library of documents to do so, saving time, making available material that would take months to locate in the maze of government files; that he is foremost organized, credible breaker of government monopoly on

such information; that he is contemptuous of cover-ups even when the documents seem to counter his own theories.

6. That the information from Weissberg on which I have based numerous stories, and bulwarked stories already in the works, gave them more strata of meaning; that our office of 12 other reporters have called on Weissberg for help of the same nature and has been given it; that he has helped, sometimes to my annoyance, my competitors with excellent stories (though always with the same fairhandedness with which he has helped our office.)

7. That he has steered me away from several pitfalls; that several stories looked plausible, but turned out under Weissberg's counseling to be false; that without such counseling and documentation, I would have printed false stories; that on occasions, which I hope are rare, we have gone with stories that we might not have had Weissberg not been out of pocket at the time and thus unreachable for a check; that, finally, I seldom if ever write a piece touching on the assassinations without bouncing it off Weissberg.

8. That Weissberg has done these useful works without charge, and indeed, has even sometimes paid the duplication costs from his own pocket; that the providing of these documents have been afforded to other reporters as well, to my certain knowledge; that his files are available to us at all times when he is home and that he cheerfully (with the exception of a rare grump from time to time) guided us to the best available documentation.

9. That the press absolutely cannot rely on government agencies and conventional libraries for information on the Kennedy and King assassinations and related probes; that Weissberg's very independence and the integrity of his files are essential if the issues are to be dealt with properly; that, therefore, you simply have to have someone like Weissberg to find the key documents from the 25,000 in the King case and the -- I'm guessing -- millions scattered in various files on the Kennedy cases.

10. That any money spent to help Weissberg build up his files would be far better spent than in a government operation, and infinitely cheaper; through giving Weissberg the records free (the government really should give him a stipend and an assistant) the public will be served well as his work makes for better, more accurate, less inflammatory information being disseminated; his contribution so far in killing off kook theories and encouraging sound investigations is measureless.

11. That Weissberg helps keep the government honest, helps head off the coverups, the selected leaking, the fabrications that have often characterize individuals in government. To often they have special axes to grind and special interests to protect, including their own jobs.

12. That to have the maximum number of documents in Weissberg's hand is the best way to ensure that scholars will have a record of proven worth; that his decision to donate them to the University of Wisconsin is a worthy idea.

13. That government assistance to duplicate the entire Weissberg files twice, one copy being kept on the East Coast, preferably in Washington, and one on the West Coast, perhaps San Francisco, would federal money splendidly spent, for present media people and historians and for future ones.

Signed this day of October 1, 1977.

Leslie H. Whitten
Leslie H. Whitten

District of
Columbia

Sworn and subscribed before me this 17th day of
October, 1977



J. [Signature]
Notary Public

My Commission Expires January 14, 1982

Exhibit 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
Harold Weisberg, :
Plaintiff :
vs. :
United States Department of Justice, : Civil Action No. 75-1996
Defendant :
.....

AFFIDAVIT OF HOWARD ROFFMAN

1. My name is Howard Roffman. I live at 5885 Edenfield Road, Apt. B-29, Jacksonville, Florida 32211.

2. This affidavit concerns Harold Weisberg's entitlement to remission of costs in this Freedom of Information Act lawsuit which he has brought against the United States Department of Justice to obtain records relating to the assassination of Dr. Martin Luther King.

3. I am in a unique position to certify that Harold Weisberg's research into the assassinations of President John F. Kennedy and Dr. King have been for the direct benefit of the public and, more particularly, all interested, responsible researchers, historians, and media representatives, and not for his personal financial gain.

4. I am the author of a book on the assassination of President Kennedy entitled Presumed Guilty. I could not have written that book without the research assistance I received from Mr. Weisberg.

5. Mr. Weisberg and I first came in contact in 1969, when I was sixteen years old and a junior in high school. Mr. Weisberg knew that I had done serious research on the Kennedy assassination and he invited me to his home in Frederick, Maryland, to spend the weekend and study his then-unpublished books on the assassination and records that he had recently obtained from the National Archives.

6. After that first weekend in 1969, Mr. Weisberg and I became close personal friends and associates. For the next five years I would

visit his home in Frederick at least three times a year, often staying more than a week at a time. I always had unsupervised access to all of Mr. Weisberg's files and was free to copy whatever papers or documents I pleased. Mr. Weisberg faithfully kept me up to date on the latest releases of information that he obtained from the Government, often providing copies for my files.

7. Mr. Weisberg's sharing of his research with me took place at a time when he knew that I was writing a book which would inevitably compete with his own books on the Kennedy assassination (which he had published at his own expense). Still, he encouraged my work out of the belief that I would write a scholarly work in an area where there is a regrettable lack of scholarship. I clearly came to know that Mr. Weisberg's commitment to the advancement of honest, responsible research and writing on the subject of political assassination in America not only outweighed but obliterated any profit motives he might have as a competing author.

8. When, as an undergraduate at the University of Pennsylvania, I undertook a history research project into President Kennedy's policy toward Southeast Asia, Mr. Weisberg opened his own research files on that subject to me, fed and housed me in his home at no charge to me while I worked, and finally sent me off with two cartons full of his own files.

9. When I left Philadelphia, Pa., in September 1974 to attend law school in Gainesville, Florida, I was limited in my ability to visit Mr. Weisberg (I went to his house for only one week during my time in law school), but we continued our correspondence and he continued to send me volumes of material, including documents on the Kennedy and King assassinations and court papers in his various Freedom of Information suits.

10. My book on the assassination was published while I was in law school. When it appeared in print, Mr. Weisberg helped to arrange promotional appearances for me, even though he was a competing author.

11. I am currently serving as law clerk to the Honorable Bryan Simpson, Circuit Judge, Fifth Circuit Court of Appeals. My work in this capacity is so time consuming that I am virtually unable to continue my former degree of research into the Kennedy assassination. Thus, my contribution to Mr. Weisberg's research is now limited to the small amount of documents I am able to secure administratively from various government agencies through the Freedom of Information Act. Still, the volume of material Mr. Weisberg sends to me --the fruits of his research--has actually increased because of his improved copying facilities.

12. In my close association with Mr. Weisberg, I saw that he followed a policy of openness toward all researchers willing to come to his home. Reporters, historians, students -- all were welcome to use the valuable research materials contained in Mr. Weisberg's files and to use his home as a place to do their research. In fact, I often became concerned that some people had abused the trust that Mr. Weisberg placed in them and had mistreated his files. I quickly learned that, because of his openness, Mr. Weisberg was willing to put up with much more than I would in allowing others to use my files.

13. In addition to this open policy about his files, Mr. Weisberg has, to my personal knowledge, devoted countless hours to using his research for the benefit of the press and members of Congress. He is often called upon for background information and detail that is unavailable from any other source. He is asked to do this for free, usually even without credit or mention in public, and I have never known him to refuse. For example, I have been working with Mr. Weisberg at his home when he would receive an urgent call from Fred Graham (then with the New York Times) or George Lardner (of the Washington Post), wanting to know the "scoop" behind a breaking story; Mr. Weisberg would interrupt his own work for hours at a time to help these men, asking nothing in return except that the public be better informed.

14. To my personal knowledge, Mr. Weisberg's desire that as many people as possible share the fruits of his research is evidenced by his efforts to deposit his files with a reputable University library. I have read Mr. Weisberg's correspondence relevant to these efforts and was present when he discussed plans to donate his files to the University of Wisconsin at Stevens Point. The discussions involved Mr. Weisberg, a professor of history at the school, Dr. David Wrone, and a University Chancellor, and took place in November of 1976 in Stevens Point.

15. Although such information is personal in nature, I think the Court should be aware of it in deciding the issue to which this affidavit is addressed: I know for a fact that Mr. Weisberg has not financially profited from his work on assassinations and that he has not undertaken this work out of a desire to "strike it rich." In my frequent stays at the Weisberg home, I was struck by the modesty of their lifestyle and the tremendous sacrifices of material goods that both Mr. Weisberg and his wife have made to enable Mr. Weisberg's research to continue. In my experience I have never witnessed such dedication to work and principle that resulted in so great a deprivation of material, financial comforts which some have come to regard as necessities. I cannot emphasize how much Mr. Weisberg's dedication and sacrifice has inspired me.

16. Mr. Weisberg's efforts in the present case indicate to me his unselfish motives.

17. Mr. Weisberg's book on the King assassination was published six years ago and is no longer commercially available. I cannot conceive how he could write another book on that topic in the future, if only for reasons of time and other pressing research needs. Other books on the King assassination are commercially available today, and some are heavily promoted. Their authors, without exception, share profound disagreements with Mr. Weisberg and have been publically contemptuous of him.

18. While these other authors have time to travel extensively to promote their books (for example, Mark Lane and William Bradford Huie), they apparently do not have time to assist the legal efforts undertaken by Mr. Weisberg to make public information about the crime through which they are trying to sell books.

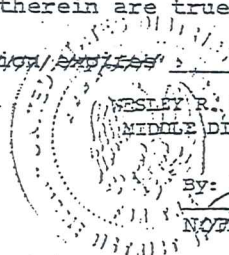
19. I assume that since the Government is in Court over disclosure of these King records, it has made whatever disclosures it has on less than a purely voluntary basis. Hence, someone had to use the Freedom of Information Act to force disclosure of information about this most important event in American history. Such disclosure serves the public and in this case cannot serve the personal financial interests of the man who forced disclosure, Mr. Weisberg.


Howard Roffman

DUVAL COUNTY, FLORIDA

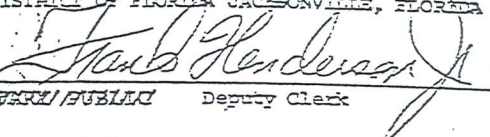
Before me this 12th Day of October 1977 affiant Howard Roffman has appeared and signed this affidavit, having first sworn that the statements made therein are true.

~~NOT FOR PUBLICATION~~



WESLEY R. THIES, CLERK UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA JACKSONVILLE, FLORIDA

BY:



NOTARY PUBLIC Deputy Clerk

Exhibit 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 75-1996

U.S. DEPARTMENT OF JUSTICE,

Defendant
.....

AFFIDAVIT OF DAVID R. WRONE

I, David R. Wrone, being first duly sworn, depose as follows:

1. I am a professor of history at the University of Wisconsin-Stevens Point. I reside at 1518 Blackberry Lane, Stevens Point, Wisconsin.

2. I specialize in the ideas and institutions of reform and teach and publish in this area. My courses include lectures and seminars on recent American history and involve the direction of graduate work.

3. I have spent many years of scholarly research on the subject of institutional reform. In 1964 I received a PhD in history from the University of Illinois (Urbana). My doctoral thesis was on the importance of the press in the emergence of Abraham Lincoln. ("The Prairie Press in Transition, 1830-1860.")

4. I have published many articles and am coauthor of a volume on the institutionalization of racial prejudice against the American Indian: Who's The Savage? A Documentary History of the Mistreatment of the Native North American (Fawcett, 1973).

5. My study of the transformation of the roads of Illinois appears as a chapter in a general history of the state: An Illinois Reader (Northern Illinois Press, 1973).

6. I have lectured widely on the assassinations of President Kennedy and Dr. Martin Luther King, Jr. and appeared on numerous radio and television shows. I have served as a consultant for local media regarding national shows and have written articles and reviewed books on these subjects. I am author of a critical bibliography which examines and categorizes scores of books which have been published on the assassination of President John F. Kennedy: The Assassination of President John Fitzgerald Kennedy: An Annotated Bibliography (State Historical Society of Wisconsin, 1973).

7. In November, 1976 I directed a symposium on the integrity of basic institutions and the assassinations of President Kennedy and Dr. King. The lectures delivered at this symposium were televised for educational use and are now being circulated in video and audio form in colleges and high schools. Attached hereto is a brochure which lists the materials which are available from the University of Wisconsin-Stevens Point Office of Educational Services and Innovative Programs. (See Exhibit A)

8. I have an extensive familiarity with the literature on the assassination of Dr. Martin Luther King, Jr. I have read the voluminous court records of the several cases related to the conviction of James Earl Ray and his attempts to overturn that conviction and obtain a trial on the charge that he murdered Dr. King. I have also read the publications on this subject by the Department of Justice and committees of Congress, as well as the secondary accounts.

9. In the course of my study of the King assassination materials, I have become quite familiar with the work of Harold Weisberg on this subject and now consider myself an authority on his contribution. In the near future I intend to publish scholarly articles in journals and deliver lectures to learned societies on his work.

10. Mr. Weisberg's work on the assassination of Dr. King is the only significant work available for the person seriously interested in the evolution of this subject and its relationship to the fundamental institutions of American society. There is simply no way to approach this subject other than through Mr. Weisberg's prodigious efforts.

11. The University of Wisconsin at Stevens Point has a deep interest in the acquisition, maintenance, and dissemination of Mr. Weisberg's files, especially those on the assassination of Dr. Martin Luther King, Jr., both in terms of the immediate future and for future generations. The University plans to establish a Weisberg Archive where the records which Mr. Weisberg has accumulated and analyzed can be properly maintained and made accessible to scholars and the general public through a professional staff knowledgeable in the subject matter.

12. I am familiar with the volume and kinds of records Mr. Weisberg has on Dr. King's assassination (and also President Kennedy's) and the quality of his analysis of them. I have, in fact, made several visits to his home in Frederick, Maryland for the purpose of discussing his work with him and obtaining records from him. Mr. Weisberg's files on both the Kennedy and King assassinations are invaluable, unique, and in many respects cannot be duplicated from any other source. This, of course, explains the interest of the University of Wisconsin-Stevens Point in obtaining them.

13. The establishment of a Weisberg Archive, particularly where King assassination materials are concerned, will also facilitate the use of fellowships and grants to black students interested in this subject.

14. The University of Wisconsin-Stevens Point has already begun to draw upon a small portion of the materials which will ultimately comprise the Weisberg Archive. It has already developed a video tape series suitable for public broadcasting stations and for high school and college classes of some of the unique materials which Mr. Weisberg has donated to the University. These video tape materials can be purchased or rented by the public.

15. The University plans to continue developing and disseminating Mr. Weisberg's materials as they are deposited and made available. This will be done, first, through electronic media presentation in slides, video tapes, documentary handbooks, guides, indexes, and course aides. Additional plans are to develop support services for students from minority backgrounds who might desire to make scholarly use of the documents. Future plans also include the microfilming of some important segments, preparing of guides, and making these available to colleges throughout the nation and overseas.

16. Mr. Weisberg's work on political assassinations and the workings of our basic institutions--law enforcement agencies, the courts, the press, the intelligence agencies--and the establishment of an archive on it at Stevens Point are in the public interest. Mr. Weisberg's accomplishments are unique in character--they relate to far more of enduring public interest than just political assassinations--and are without precedent in scale. In total volume his materials exceed the nucleus collection on the frontier formed by Lyman C. Draper in the nineteenth century which established the State Historical Society of Wisconsin and the holdings of several other famed manuscript libraries gathered in America that are seen as part of our national treasure. The quality of the materials and his analysis of them is excellent. He possesses photographs, maps, taped interviews, letters, and other records that can be found in no other place.

17. Mr. Weisberg's scholarship is magisterial in its command of the documentary base and clear on the fundamental points at issue. He cannot be compared with the other authors on the King assassination from the perspective of scholarship and objectivity. His work on this topic stands in a totally different light from all others. He works from an objective base, seeking not merely to discover who killed Dr. King or to reap commercial profits but to establish what the evidence is and what it means not only in terms of the crime itself, but also in terms of the larger significance it holds for the workings of our basic institutions.

18. It is this last point which is of fundamental importance. Mr. Weisberg's work focuses on the performance and nonperformance of basic social institutions--the law, the press, publishers, Congress, the Department of Justice, and others--during a time of crisis. In so doing he reveals deep flaws which caused these institutions to malfunction in a manner which thwarted justice and hurt the ends of the nation.

19. I am of the opinion that Mr. Weisberg's work cannot be reduplicated by the government or by scholars. I have been informed that the FBI has established a file of King assassination documents in a reading room

accessible to members of the general public at its headquarters in Washington, D.C. This does not significantly assist the public interest in evaluating the facts of the King assassination or the FBI's investigation to it. The initial problem is, of course, that the selection of records contained in this file will be made by the FBI, which itself has been severely criticized in connection with its investigation of the King murder. In addition, these records will be largely inaccessible to all except casual tourists. Few scholars have funds sufficient to enable them to travel to Washington, D.C. and stay there long enough to peruse the more than 20,000 pages of documents contained in the FBI's Central Headquarters file on the King assassination. Moreover, scholars and citizens would not know where to begin studying this enormous volume of documents without extensive advance preparation. What is required is a scholar who can use the resources of a university system to assist those who wish to do work in this area.

20. Even the costs of duplication imposed by government agencies can impose a serious burden upon scholarship. A University archive such as the Weisberg Archive which is being established at Stevens Point can provide better and more economical service for duplicating records, including not only xeroxing but also making slides, photographs, and tapes. Moreover, it can offer a full range of other essential services, providing books, reference works, maps, newspapers, journals, and the like. It can also coordinate scholarly efforts in an area in such a manner that it will lead to increased dissemination to the public of knowledge about such an area through the publication of books, articles, dissertations, and so forth.

21. The crucial aspect of any archival collection, however, is that there must be a knowledgeable person associated with it and residing where it is located who can develop the material and guide students and scholars. This is the main reason for establishing a Weisberg Archive at the University of Wisconsin-Stevens Point.

22. Mr. Weisberg has stated that he intends to leave his records on the assassination of Dr. King to the University of Wisconsin-Stevens Point.

For the reasons which I have outlined above, the public interest will be served if the records which Mr. Weisberg has and is continuing to obtain are deposited at the Weisberg Archive in Stevens Point. More to the point, the public interest will be better served if records on Dr. King's assassination are made accessible to journalists, scholars, and the general public through the archive at Stevens Point than if they are only accessible through the FBI and other components of the Department of Justice in Washington, D.C.

23. Even were this not true, the caliber and importance of Mr. Weisberg's work on the King assassination are such that making all government records available to him without cost is more than justifiable. The simple fact is that Mr. Weisberg uses the records he obtains to serve--not his personal interest--the public interest by informing journalists and scholars, and through them, the general public.

Professor David R. Weisberg
PROFESSOR DAVID R. WEISBERG

PORTAGE COUNTY, WISCONSIN

Subscribed and sworn to before me this 24th day of October, 1977.

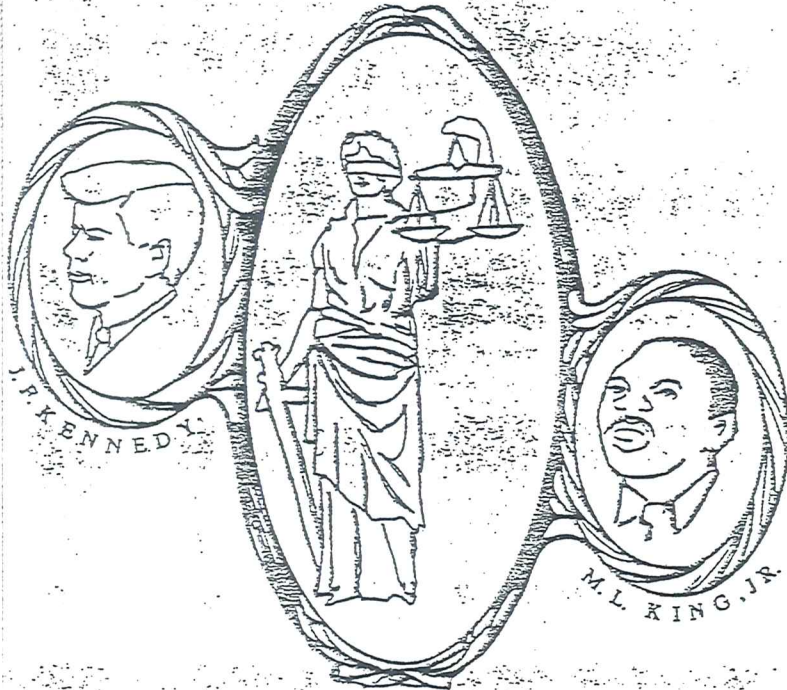


Carol J. Lavin
NOTARY PUBLIC IN AND FOR
PORTAGE COUNTY, WISCONSIN

My commission expires 7/12/81

Exhibit A

Wrone Affidavit C.A. 75-1996



EQUAL JUSTICE FOR ALL

PRESIDENT JOHN F. KENNEDY/DR. MARTIN LUTHER KING, JR.
ASSASSINATION MATERIALS

The materials listed in this brochure were developed from a symposium held on the University of Wisconsin-Stevens Point campus in November of 1976. The symposium was directed by Dr. David R. Wrono, Professor of History at the University of Wisconsin-Stevens Point and a nationally recognized authority on the President John F. Kennedy assassination.

Other symposium participants included Harold Welshberg, author, former Senate Investigator, editor, investigative reporter, OSS Intelligence, political analyst and the man regarded by many as having done the definitive investigation, research and writing on the President John F. Kennedy/Dr. Martin Luther King, Jr. assassination and their official inquiries; James H. Leary, Washington attorney, who has specialized in numerous freedom of information suits regarding the President John F. Kennedy/Dr. Martin Luther King, Jr. assassination; and in an authority on the legal aspects of the investigation of the Dr. Martin Luther King, Jr. assassination; and Howard Roffman, attorney, recognized authority on the President John F. Kennedy assassination and the investigation of Reynolds Gully, one of the key source books for an understanding of the Warren Commission investigation.

The President John F. Kennedy/Dr. Martin Luther King, Jr. assassination materials prevent the research of four scholars over the past 16 years, and emphasize the legal obstacles barring the path to the public in access to information. Several of the video-cassette contain film photographs never before made public.

UNIVERSITY OF WISCONSIN-STEVENS POINT
OFFICE OF EDUCATIONAL SERVICES AND INNOVATIVE PROGRAMS

August 1977

I. ASSASSINATION SYMPOSIUM VIDEOTAPESETS

	PURCHASE PRICE
A. <u>THE DR. MARTIN LUTHER KING, JR. MATERIALS</u>	
Four 60 minute videocassettes and one 30 minute videocassette.....	\$175.00
1) David R. Malone - One 60 minute videocassette, "Dr. Martin Luther King, Jr. and the Transformation of the Civil Rights Movement."	\$40.00
2) James H. Leary - One 60 minute videocassette, "The Assassination of Dr. Martin Luther King, Jr. and the System of Justice--Honesty and the Idea." Part I.	\$40.00
3) Harold McInerney - One 60 minute videocassette, "The Assassination of Dr. Martin Luther King, Jr.: A Case Study of the Malfunction of Government." Part I.	\$40.00
Part II - One 60 minute videocassette, "Question and Answer."	\$40.00
B. <u>THE PRESIDENT JOHN F. KENNEDY MATERIALS</u>	
Nine 60 minute videocassettes & two 30 minute videocassettes.....	\$400.00
1) David R. Malone - One 60 minute videocassette, "The Assassination of President John F. Kennedy: The Malfunction of Criticism."	\$40.00
2) James H. Leary - One 60 minute videocassette, "The Assassination of President John F. Kennedy and the Impact on the Legal System, the Freedom of Information." Part I.	\$40.00
3) Harold McInerney - One 60 minute videocassette, "The Warren Commission Behind the Scenes--The Secret Documents." Part I.	\$40.00
Part II - One 60 minute videocassette.	\$40.00
4) Harold McInerney - One 60 minute videocassette, "The Assassination of John F. Kennedy: Suppression of the Evidence." Part I.	\$40.00
5) Harold McInerney - One 60 minute videocassette, "The Warren Commission and the Failure of American Justice." Part I.	\$40.00
6) Harold McInerney - One 60 minute videocassette, "Recent Development: Schoolker Report, Abzug Report, FBI Revelations." Part I.	\$40.00
Part II - One 60 minute videocassette.	\$40.00

II. ASSASSINATION SYMPOSIUM AUDIOCASSETTES

	PURCHASE PRICE
A. <u>THE DR. MARTIN LUTHER KING, JR. MATERIALS</u>	
Three C-90 audiocassettes and one C-60 audiocassette.....	\$10.00
1) David R. Malone - One C-90 audiocassette, "Dr. Martin Luther King, Jr. and the Transformation of the Civil Rights Movement."	\$5.00
2) James H. Leary - One C-90 audiocassette, "The Assassination of Dr. Martin Luther King, Jr. and the System of Justice--Honesty and the Idea." Part I.	\$5.00
3) Harold McInerney - One C-90 audiocassette, one C-60 "The Assassination of Dr. Martin Luther King, Jr.: A Case Study of the Malfunction of Government." Part I.	\$10.00
B. <u>THE PRESIDENT JOHN F. KENNEDY MATERIALS</u>	
Eight C-90 audiocassettes, one C-60 and one C-30 audiocassettes.....	\$45.00
1) David R. Malone - One C-90 audiocassette, "The Assassination of President John F. Kennedy: The Malfunction of Criticism."	\$5.00
2) James H. Leary - One C-90 audiocassette, "The Assassination of John F. Kennedy and the Impact on the Legal System."	\$5.00
3) Harold McInerney - Two C-90 audiocassettes, "The Warren Commission Behind the Scenes--Their Secret Documents."	\$10.00
4) Harold McInerney - Two C-90 audiocassettes, "The Assassination of President John F. Kennedy: Suppression of Evidence."	\$10.00
5) Harold McInerney - One C-90 audiocassette, one C-60, "Recent Development: Schoolker Report, Abzug Report, FBI Revelations."	\$10.00
6) Harold McInerney - One C-90 audiocassette, one C-30, "The Warren Commission and the Failure of American Justice." Part I.	\$10.00
III. <u>PRESIDENT JOHN F. KENNEDY/DR. MARTIN LUTHER KING, JR. MATERIALS</u>	
One 60 minute videocassette and one C-90 audiocassette.....	\$40.00
1) Harold McInerney and James H. Leary - One 60 minute videocassette, "Recent Development: Court Cases, House of Representatives Report."	\$40.00
2) Harold McInerney - One C-90 audiocassette, "Recent Development: Court Cases, House of Representatives Report."	\$5.00

Exhibit 4

Exhibit 9

C.A. 75-1996

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

Attachment 1

Memorandum

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

TO : Mr. DeLoach

FROM : A. Rosen

SUBJECT: MURKIN

DATE: October 20, 1969

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. McDonough
- 1 - Mr. Bishop
- 1 - Mr. W. C. Sullivan

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

Weisberg is apparently identical with Harold Weisberg an individual who has been most critical of the Bureau in the past.

by letter in April, 1969, requested information on the King murder case for a forthcoming book. Weisberg was approved that his letter not be acknowledged (100-35138)

Enclosures (2) DATE 10-21-69 17-3-71-3838

EJM:jmv
(8)

CONTINUED - OVER

70 NOV 6 - 1969

Exhibit 5

Exhibit 10

6-2-75-1096

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

DATE: 6/24/70

FROM : A. E. Bishop

SUBJECT: ASSASSINATION OF DR. MARTIN LUTHER KING

By way of background, on 4/27/70 Assistant Attorney General William Ruckelshaus, Civil Division, Department of Justice, advised the Director that Harold Weisberg, the author of the books "Whitewash I" and "Whitewash II" has filed a civil action against the Department of Justice and Department of State demanding copies of all the papers which were employed in the extradition in the James Earl Ray matter. These documents were used in the extradition proceedings against James Earl Ray in England and were thereafter returned to the State Department and were transferred to the Department of Justice. Included in the documents were a considerable number of affidavits of FBI Agents, affidavits covering fingerprints, ballistics' examinations, etc. Ruckelshaus asked if the release of these documents to Weisberg would in any way prejudice the work of the FBI. It is noted that Weisberg is an author who has been extremely critical of the FBI, the Secret Service and other police agencies in books which he has written about the assassination of President Kennedy.

By memorandum of April 30th the Director advised Ruckelshaus that the determination as to the release of the pertinent documents is within the province of the Department of Justice and the FBI interposes no objection. It was suggested, however, that the Civil Division communicate with the Civil Rights Division of the Department on this matter since Federal process was still outstanding against Ray charging a violation of a Federal Civil Rights Statute.

The Bureau is in possession of a copy of a letter dated May, 1970, from Jerris Leonard, Assistant Attorney General, Civil Rights Division, to Ruckelshaus stating that any release of any information in the files pertaining to the investigation regarding James Earl Ray would be inimicable to the investigation.

Enc. / ENCLOSURE

- 1 - Mr. DeLoach
- 1 - Mr. Bishop (CONTINUED-OVER)
- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Jones

JUN 29 1970

JUN 29 1970

UNRECORDED COPY FILED IN 110

REC-3

JUN 29 1970

Memorandum to Mr. DeLoach
Re: Assassination of Dr. Martin Luther King
Current Developments

On 6/24/70 Bill King in the Information Office, Department of Justice, advised that the Department subsequently decided that it would not be possible for the Government to successfully defend the civil action by Weisberg against the Department for the release of the documents in question. Accordingly, copies of these documents were furnished to Weisberg. King advised that in view of the fact that the Department had released the documents to Weisberg the Department did not wish Weisberg to make a profit from his possession of the documents and, accordingly, has decided to make similar copies available to the press and others who might desire them. King stated that the documents to be released consist of approximately 200 pages of copies of affidavits, autopsy reports, affidavits with regard to fingerprint examinations and ballistics tests, and copies of other documents which serve to link Ray with the assassination of Martin Luther King. At Bishop's request King furnished the attached set of the documents being released. King stated that these documents will be released to the press at 3 p.m. on 6/24/70.

The General Investigative Division has been orally advised of the above information.

RECOMMENDATION

None. For information.

Rec'd *TB* *WBS*
Did you get a written
instruction from Dept
concerning
King's release?

Exhibit 6
Exhibit 11

~~C.A. 75-1996~~

CO-2-31,000

November 13, 1970

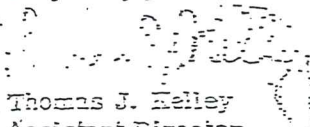
Mr. James B. Rhoads
Archivist of the United States
National Archives and Records Service
Washington, D. C. 20408

Dear Mr. Rhoads:

In connection with the civil action Weisberg vs The National Archives, Civil Action 2589-70, Mr. Weisberg called at this office recently and displayed a copy of the proceedings in the case. He stated that since the Government's answer reflected that the Archives should not have been a party to some of the requests being made by Weisberg, he was notifying us that under the Freedom of Information Act he was requesting a copy of the Memorandum of Transfer to the Archives dated April 26, 1965, covering material then in the possession of the Secret Service, which memorandum reflected that Mrs. Evelyn Lincoln had receipted for the material set out in the Memorandum of Transfer.

There may be some validity in Mr. Weisberg's contention that since this paper is in the possession of the Secret Service, we are the proper people for him to sue or to subpoena to produce the item. However, since another Government agency has declined to furnish him a copy of the item, we are seeking advice as to what action we should take if a suit is brought seeking to force us to produce the document, or if a subpoena is received to produce the document for his examination.

The position of the Secret Service is that we have no grounds upon which to refuse making the item available to Mr. Weisberg if he should invoke the provisions of the Freedom of Information Act.

Very truly yours,

Thomas J. Kelley
Assistant Director

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100-100000000

Exhibit 7

JAMES H. LESAR
ATTORNEY AT LAW
910 SIXTEENTH STREET, N. W. SUITE 600
WASHINGTON, D. C. 20008
TELEPHONE (202) 223-3587

November 19, 1977

Mr. Peter Flaherty
Deputy Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Flaherty:

For more than a decade now my client, Mr. Harold Weisberg, has been trying to obtain Department of Justice records relating to the assassination of President John F. Kennedy and the investigation of that crime by the Federal Bureau of Investigation. While Mr. J. Edgar Hoover was FBI Director, the FBI had a policy, approved by him, of not responding to Mr. Weisberg's information requests. Unfortunately, most of Mr. Weisberg's information requests have still not been complied with, including one for the FBI's Headquarters' file on the assassination of President Kennedy.

News reports indicate that the FBI is preparing to make public a massive volume of its records on President Kennedy's assassination. Most, if not all, of these records are covered by Mr. Weisberg's previous FOIA requests.

As you are aware, the Freedom of Information Act provides that documents shall be furnished without charge or at a reduced charge where the agency determines that a waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. 5 U.S.C. §552(a)(4)(A).

Department of Justice regulations authorize you to make this determination. On behalf of Mr. Weisberg, I request that you determine that all search fees and copying costs be waived so that the forthcoming FBI releases of records pertaining to the assassination of President Kennedy may be made available to him without charge.

Mr. Weisberg is widely-recognized as the leading scholar of President Kennedy's assassination. If you wish to have him support this request for a fee waiver with affidavits testifying to the fact that furnishing him these records will primarily benefit the general public, I will be happy to supply them. I believe, however, that the Department of Justice is sufficiently familiar with Mr. Weisberg's stature as a Warren Commission critic that this should not be necessary.

I would appreciate your prompt response to this request.

Sincerely yours,

James H. Lesar
James H. Lesar