

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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HAROLD WEISBERG, :
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 Plaintiff, :
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 v. : Civil Action No. 77-2155
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 GRIFFIN BELL, et al., :
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 Defendants :
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AFFIDAVIT

My name is Harold Weisberg. I reside at Route 12, Old Receiver Road, Frederick County, Maryland. I am the plaintiff in Civil Action No. 77-2155.

1. I am a writer. I have published six books on the assassination of President Kennedy and one book on the assassination of Dr. Martin Luther King, Jr. To the best of my knowledge, I am the only person who has devoted much more than full time, as measured in normal working days, to these subjects.

2. My prior experiences include those of reporter, investigative reporter, Senate investigator and intelligence analyst. To the best of my knowledge, I am the only person working in the field of political assassinations and/or their official investigations who has these prior experiences.

3. I will be 65 years old on April 8.

4. I suffered acute thrombophlebitis in both legs and thighs, with the damage irreversible and extensive by the time I was hospitalized in October 1975. This severely limits what I am now able to do. I must, for example, sit with my legs elevated, even when I type. I am also to get up and walk around every 20 to 30 minutes. This is necessary for blood circulation. I may not keep my legs pendent nor may I stand still except for brief periods. I must daily consume what I am told is a heavy dose of anti-coagulant, the dosage determined by weekly blood tests having to do with clotting of the blood. I was told when I left the hospital and I have since been told that if a single blood clot breaks loose it can kill me. I am under strict medical cautions against being cut or bruised and against falling. During my waking hours I must wear tight and uncomfortable venous supports, made especially for me. They extend from my toes to my torso. When I am abed I wear surgical supports of the same length.

5. During August 1977, when I had become quite weak, unsteady on my feet and severely limited in my walking capacity, there was an additional diagnosis of arterial obstruction. I then lost 30 pounds in a month without going on a diet. For the present my doctors are not making further tests because of the hazard involved in those tests. Additional testing will be indicated if and when my doctors consider arterial surgery. There has, however, been the additional diagnosis of hardening of the arteries and impairment of the circulation of blood to the brain. The question of angina was raised on emergency room examination over the 1977 Labor Day weekend. This question has not been resolved from what my doctors have told me.

6. During the past month, because I become dizzy if my head is moved rapidly, my doctor has warned me to be exceedingly careful because fractured hips are not uncommon as a consequence of such circulatory problems as I have.

7. My requests of the FBI for the release of such records as are included in its current releases began with a letter I wrote Director Hoover on May 23, 1966. He never responded to that or any other letter or formal FOIA request. My FOIA requests of the FBI and the Department for withheld records relating to the assassination of President Kennedy began 10 years ago. Those requests, which now total more than two dozen of the 50 the FBI has acknowledged publicly, remain without compliance despite my many efforts to obtain compliance. My appeals also are ignored. I have recently obtained proof from FBI files that noncompliance with my requests was ordered. One such record has the handwritten approval of Director Hoover.

8. Despite this steadfast and virtually total refusal to comply with the Act and my requests under it, the FBI has, to my personal knowledge, complied with both similar and identical requests made later by others.

9. Despite the FBI's and the Department's refusal to comply with my requests under the Act, they have both bestowed upon me credentials I believe to be unique. They have told two different federal courts in Washington that I know more about the assassinations of President Kennedy and Dr. King and the official investigations of both than anyone in the FBI. Over my objections the Department has forced me into the position of being its consultant in my C.A. 75-1996 in which the Department is the defendant. Most of the records involved are those of the FBI.

10. I am informed by my counsel that, on behalf of the Department and the other named defendants, Mr. Quinlan J. Shea has charged that my work is "blatantly commercial."

11. This is totally unfactual. It cannot be a matter of Mr. Shea's personal

knowledge. It also cannot be a reasonable suspicion. Neither Mr. Shea nor anyone else in the Department has asked me questions relating to my wealth or poverty, to my financial condition, to the sale of my books or any questions of any other kind the responses to which could justify Mr. Shea's representations.

12. While I am aware that in the past the Department has obtained copies of my income tax returns, I have filed no income tax returns that could even remotely justify Mr. Shea's representations.

13. It is not possible for any clandestine FBI examination of records relating to me, at my bank or anywhere else, to have yielded any information that can be a basis for Mr. Shea's representations.

14. My wife is a trained and experienced bookkeeper whose record-keeping led to praise by the Internal Revenue Service after a full field audit that extended over a period of about a year.

15. As soon as my lawyer informed me of Mr. Shea's representation of "blatantly commercial," I asked my wife to tabulate my gross income for the year 1977 and to locate several expense items for that year. I also asked her to provide me with the gross income figures for my last two books and for the reprinting of my third book.

16. Not counting a few small gifts from friends, my gross income for the year 1977 was but \$7,199.13. This includes a few consultancies, a college appearance and all gross income from the sale of books.

17. During the past year I have paid the FBI alone a total of \$2,518.80. This is more than a third of my gross income.

18. These checks are for records relating to other than the Kennedy assassination. The overwhelming majority of the records provided and charged for are not in response to my requests. They were forced upon me by the Department and the FBI in their substitution for my requests. The specifics of my requests remain without compliance in that case almost nine years after I first made those requests and after more than two years in federal district court.

19. This is not the only Departmental revision of my requests to make them less uncongenial to the Department.

20. During 1977 I reprinted the third of my JFK assassination books. It is by far the poorest selling of my books. I reprinted it to keep its contents available. I am guaranteed still further losses on that book from this reprinting.

21. There are many costs incurred in printing other than those I am able to locate on short notice. Our records establish that for the paper, the printer's press time and shipping charges, the sum is \$4,887.75. My records also reflect that since then the gross sales of this book have amounted to only \$592.83.

22. There are, of course, many expenses associated with selling books. The \$592.83 and other sales figures are gross figures.

23. This is the first book on the subject with extensive facsimile reproduction of official records that had been suppressed. The book is on the FBI's suppression of the photographic evidence in the Kennedy assassination. Approximately 60 percent of the book is devoted to facsimile reproduction of once-suppressed records.

24. In 1974 and in 1975, I published two books. The 1974 book is the last of my Whitewash series. The 1975 book, Post Mortem, is of about a third of a million words. FOIA cases led to major parts of the contents of both books. Post Mortem reflects the results of three such suits. The costs of these suits are reflected by the fact that one of them, still unresolved, is now before the appeals court for the fourth time. It has been to the Supreme Court. It is the first of four cited in the Senate debates on the amending of the Act as requiring those amendments. These cases represent what for me are extraordinary expenditures of time and money.

25. This particular amendment of FOIA is of the investigatory files exemption. I believe the FBI's resentment over this adds to its preexisting dislike of and prejudice against me, as is detailed in what appears later in this affidavit.

26. The press time, paper and shipping costs of Post Mortem amount to \$6,301.14.

27. During the past three years, the total gross sales of these two books amounted to only \$9,430.52 for Whitewash IV and \$10,647.87 for Post Mortem. In neither case have I begun to recover all the costs.

28. During the past 13 or so years, most of my appearances for speeches and seminars have been entirely unpaid or paid at so low a rate that at times my transportation costs were not covered. The honorarium for the one paid speech I made in 1977 was \$750. From this the commission of the lecture bureau and the travel cost had to be deducted. The location of that college required two days of time to make that appearance.

29. Most of my consultancies are with reporters, students and professors, none of whom pay me. In recent years the time required in these FOIA suits by offici.

stonewalling has made it impossible for me to seek paid consultancies. In November I had to decline one after I accepted it. When I am paid, the compensation varies. I received \$500 from a well-known book publisher for reading 65 typed pages and making a verbal report. I received \$4,000 from a major magazine for reading three articles and criticizing them by phone. I may receive from \$100 to \$300 for a single phone consultation. Or I may receive nothing.

30. Many hours over a period of days was required of me by the nature of the FBI's December 7, 1977, release of 40,001 JFK assassination pages. Many hours were also required of me when James Earl Ray escaped last June. I regard these kinds of consultations as public services.

31. I conducted the habeas corpus investigations that led to the Ray evidentiary hearing of October 1974 and also for that hearing. I was not paid for that effort to get the case before a jury.

32. The more responsible people working in this field, who are not the majority, frequently direct others to me to diminish the irresponsible misinformation that receives attention. In recent months this has included two syndicated TV shows. Within the past year, other than in connection with these current FBI releases, I have been consulted by domestic and foreign TV networks and major elements of both the foreign and domestic press.

33. From the scandal sheets, which I can sometimes restrain to contact with reality, to the New York Times, the Washington Post and some columns, I am a credited and an uncredited source who is consulted about news stories, especially with regard to truth, accuracy and completeness. When I obtain readily comprehensible information I believe to be worthy of public attention, I make it available. This ranges from what is not favorable to the present House Select Committee on Assassinations to what is favorable to federal agencies

34. As a recent example, an item I made available is Attachment 1. It is an FBI record from its so-called "June" file. It discloses that on the very highest level the FBI recommended what is explicitly described as "unconstitutional" acts that could jeopardize the prosecution of the only suspect in the King assassination and lead to civil suits the government would certainly lose. I believe that others in the government, the Congress, the press and the country in general should know about this. I therefore gave the record to Les Whitten, of the Jack Anderson column, the most widely distributed column in the world. Its accurate reporting of the

record did bring the matter to wide public attention.

35. My first book was not unprofitable. It was a best-seller in its original form and in pocket-size reprint. The first of four such reprints was for a quarter of a million copies.

36. Following its initial success and the successes of those that followed it, the government began an intensive international campaign to malign and destroy confidence in those of us who were critical of the official explanation of the assassination of the President. To a limited degree the CIA's efforts are known from its partial compliance with Privacy Act and FOIA requests. Those by the FBI have only been suggested in public, by the former Senate Intelligence Committee which did not release the libelous records it received. These acts by the agencies exerted a strong repressive influence on book publishers. I know of no book on the JFK assassination since those early ones that has been profitable.

37. Now that J. Edgar Hoover is dead and unable to speak, he is no longer feared. Even his former close associates have turned on him, thereby seeking to direct attention away from themselves and their acts. But when I began this work and published the first book on the subject, few dared criticize Hoover or the FBI. Few dared publish what he might not like. One of the misuses of the recent releases was to seek to blame him for those faults in the official investigation that are disclosed in the released records. Examination of the news stories reflects that this did succeed and that Hoover was awarded full blame for all the FBI's failings.

38. During the years in which the strong and known official opposition to the subject made it unpopular among publishers, I did build a reputation for accuracy and dependability and became recognized as an outstanding expert.

39. My expertise on the King assassination also was established by work I alone did. Unlike the situation of most writers, this work was acid-tested in court, where it was not even contested when it was offered in Ray's defense.

40. Following Watergate, the climate changed as it had begun to change with Hoover's death. My work continued to be productive of what from my experience I know could yield a book that could be both commercially successful and socially and politically useful.

41. When I filed C.A. 75-1996 to obtain those FBI records I expected to provide official confirmation of the work I had already done, my work was well known to the Department from the use of part of it during the evidentiary hearing of 1974. Beginning with its ignoring my reiterated FOIA requests in April 1975, the Department

engaged in a series of successful efforts to deter my work, to consume as much of my time as possible and to waste my meager financial resources. After I filed that complaint, when the FBI had decided to release some of the records to me, a lawyer in the Department's Civil Rights Division urged that I be turned down first and some legal excuse for the rejection be contrived thereafter. His course was not taken only because others feared being "~~celebrated~~^{blasted}" by CBS-TV on the air, according to records I obtained in that cause. A variety of delaying tactics, pretended forgetfulness by counsel, pretended misunderstanding of the requests and the complaint, misrepresentation, failures to respond to motions, requests for more time to respond, overt misrepresentations to that court, claims that records could not be located and other tricks, as well as falsely sworn affidavits to both compliance and the inability to locate records, succeeded in delaying that cause through a series of calendar calls for almost a year after the filing of the complaint. Then the Department substituted its formulation for my requests, which required that it search, review and copy records I had not asked for and did not need. Most of what I have received and paid for - thousands of pages - is of this nature. ^{The Department} ~~It~~ then used withholdings from these records as still another means of diverting and stalling and of avoiding a search of the files in which the records I did ask for were located. When these kinds of devices could no longer suffice, it engaged in the withholding of what could not be withheld under the Department's own guidelines, those enunciated by the Attorney General and those stated to the Congress. Controlling decisions were ignored. When the Department was finally forced to suspend these improper withholdings, it took the position that it could not reprocess so large a volume of records. It has, in fact, refused to replace any records from which there had been improper withholdings. The one exception I recall is a newspaper clipping reporting that a judge had charged an FBI agent with contempt of court. The agent's name was obliterated 10 times in that single story. This is not an unfair representation of the withholdings practiced in a large volume of records. Attempting to counter and end this campaign to keep me bogged down in itself resulted in the waste of a tremendous amount of time for my counsel and me and prevented my having time for any writing.

42. When all these tricks had run their course, the Department then pretended that it could not comply without my becoming its consultant in my suit against it - because I knew more than its FBI agents did. This has tied me up even more. It also has the effect of directing attention from the Department's other components which are not in compliance. From this added burden imposed upon me over my objections

I am further denied any time for writing. Daily my regular work that remains unattended accumulates into ever-growing stacks.

43. I thus have had to make a choice between abandoning the litigation or not being able to write a timely and promising book, albeit one that would not be to the FBI's liking.

44. By then it would have been irresponsible to abandon that suit.

45. From the limited compliance I have received in that case and under the Privacy Act, I have proof that the Department decided a decade ago to "stop" me. More on this follows. By what I believe is misuse of FOIA, the Department did "stop" me. It did prevent my writing about both assassinations and the investigations of them when there was a climate of acceptability from which one might expect at least the normal return.

46. This left the literary marketplace to a number of dubious works and to the irresponsible. Most notorious of these is Mark Lane with his book, Code Name Zorro. He and it blame the FBI for the King assassination. For this he was given a six-figure advance against royalties and a promotional budget of \$50,000. This publisher and budget enabled Lane to lace the country with totally spurious charges, easily rebutted in secret by the FBI. He was able to mislead the Congress, particularly the members of the Black Caucus. They actually believed Lane's blending of the irrelevant, literary thievery and fabrication. This led to the creation of the House Select Committee on Assassinations.

47. The large promotional effort behind this book reached a vast audience, particularly by radio and TV and interviews with the print press and magazines from coast to coast. It enabled a number of appearances on Good Morning America, where virtually the only factual representation was that Dr. King was killed.

48. In intelligence operations such books are inspired by the agencies. They are known in the spook business as "black books." By their excesses they serve disinformational interests.

49. Another such book now in the hands of a literary agent has not appeared in book form but has appeared in a magazine in serial form. It theorizes that a thinly disguised and well-known soldier of fortune was the King assassin. The basis of the theorizing behind this book is unfactual. It comes from error, misconceptions and mysteries, not fact.

50. I cite these examples to show that at the time the government was making it impossible for me to write there was a market, even for trash books.

51. If there is not someone who is informed on these historical cases and who is also available to the press, the government agencies that have deep and continuing vested interest can use the press to report what the agencies want reported and to interpret the agency records as officialdom wants those records interpreted. This is what happened with the FBI's release of those 40,001 pages on December 7, 1977. For so many different records to draw from, there is a remarkable similarity in almost all the reporting. It is as though there were only a few records. And although there were 40,001 pages, after the first few days the story was entirely out of the papers. What appeared in the first stories is that to which attention was directed. A conspicuous case is the fakery of one who signed himself "Pedro Charles." This contrivance, which was known to the FBI to be a fake, received almost immediate attention on December 7. There was maximum, sensational play for that story. This, in turn, became an intrusion of the police mind into the delicacies of international diplomacy.

52. Four days after most of the world knew that Lee Harvey Oswald was dead, "Pedro Charles" wrote him from Havana, an obvious hoax. "Charles" pretended to meetings with Oswald in Miami and to an agreement to pay Oswald money for what is suggested as the assassination of the President. "Charles" also represented Oswald as the most expert of riflemen. When the wire services played this hoax straight and spread it around the world, it became the major story of those releases. Nothing else, except records relating to internal bickering, received much attention. If in those 40,001 pages there is any new fact about the investigation, I have not seen it in a diligent reading of the available papers.

53. One of those "Pedro Charles" documents was used by Hoover for the creating of a false record to which he could later refer. He noted that this hoax might be taken as indication of a conspiracy. The press reported on this "Pedro Charles" basis that Hoover suspected there might have been a conspiracy.

54. Prior to the time Hoover wrote this self-serving note, the FBI's investigation had proven the "Pedro Charles" letters to be hoaxes. The laboratory had completed the tests which proved that another after-the-assassination letter, one addressed to then Attorney General Robert Kennedy and pointing an accusing finger at "Charles" as assassin, had been typed on the same typewriter and signed with the same pen. That letter, too, suggested that Castro was responsible for the assassination.

55. There was other proof of hoaxing. Before the time of Hoover's notation, the FBI knew that the contents of the letters as they related to Oswald were false. Oswald was never in Miami. During his Marine Corps career he was not an exceptionally skilled shooter. In the official evaluation of the Marine Corps, Oswald was a "rather poor shot."

56. These stories, which spread the false notion that Castro was responsible for the assassination of the President, coincided in time with feelers between the United States and Cuban governments aimed at a detente. Predictably, the baseless suggestion that the Cuban government was behind the assassination of the American President froze those diplomatic efforts.

57. The reality is that, prior to any investigation, Hoover decided there had not been a conspiracy and that Oswald was the lone assassin. This was as soon as he heard reports that Oswald was some kind of "red." This coincided with his political beliefs, with what he knew would forward his beliefs, and with the dedication of his entire career. Prior to his making this self-serving notation, Hoover had had a five-volume report prepared. It was based on his red-assassin preconception. This report, prepared at President Johnson's direction before he established the Warren Commission, is identified in the Commission's records as CD 1.

58. Hoover's determination that the Commission agree with his red-assassin preconception intimidated and terrified the Commission. In their once-secret meetings the members of the Commission and its general counsel confessed their fear of Hoover and their frustration over the preconception of no conspiracy he had imposed upon them. They were in terror over the conspiracy question, more so because, in their words, Hoover had reached this decision without "running out all the leads." (One of the means by which Hoover was able to control the Commission follows in an account of his leakings to the press.)

59. Parenthetically, I note that the executive session transcripts containing these Commission confessions would still be secret had I not persisted in seeking them under FOIA. It required eight years of effort. The Department of Justice falsely represented these transcripts as justifying their "TOP SECRET" classification when, in fact, no classification was warranted. When the transcripts could be read, it became obvious that the real reason for withholding them was to avoid being embarrassed by their content.

60. Here I also state that these executive session transcripts are but one

of many proofs of the known infidelity to fact of the Department's allegations that I seek these records for personal gain and to hold as exclusive personal property. The first of those I obtained is printed in facsimile in my fourth book. This increased the cost of the book materially but, with the transcript running for 100 pages, I did not want anyone to have to take my interpretation of it. I also believed that the full text should be available to everyone. In addition, I was not able to afford to xerox all the sets of a hundred pages required for donation to the press. The second transcript is shorter. I also obtained it later. I used the occasion of a scheduled speech at the New York University Law School to give to the press copies of the second of these transcripts. This was six months prior to my making any other use of it. Six months later I used it in the appendix of Post Mortem. At that same press conference I also gave the press copies of all the records I had received to then relating to scientific tests in the FBI's JFK assassination investigation. Here again it was six months prior to my use of some of those records in Post Mortem. I have adhered to the practice of giving the press significant and comprehensible records when I have been able. Because of the significance of the records described above, I went through with that press conference despite pneumonia, pleurisy and a high fever and despite added weakness from inability to sleep because of the pleurisy.

61. Returning to Hoover's self-serving notation on the "Pedro Charles" documents, the press was told that Hoover had withheld these documents from the Warren Commission. This is false. It printed one in its appendices. Blaming Hoover served to turn the press away from what is missing, any FBI analysis of the purposes of these hoaxes. This is consistent with the same lack of analyses of other hoaxes. They also had the clearly visible purpose of inciting a retaliatory attack against Cuba.

62. Another widely publicized Hoover notation in the records released in the deluge of December 7, 1977, has to do with the lone-assassin leaking from his five-volume report. This was before it reached the Commission. Hoover feigned wonder over how the press obtained the information. The actuality is that Hoover had leaked it! This also is in still another of those originally withheld executive session transcripts. The Commission met in secret with then Deputy Attorney General Katzenbach. He told the Commission that, despite Hoover's pretense of indignation over the leak, nobody other than Hoover could have done the leaking.

63. As used by the FBI in December 1977, this was news management because the press was unable to cope with the vast volume of records, because it was without the factual background required and because the FBI still withheld relevant records. As used in December 1963, the leak was Commission management as well as news management. It is what so thoroughly intimidated the members, as their executive session transcripts, particularly that of January 22, 1964, reflect in the most vivid language. Hoover's leak boxed in the Commission. It enabled him to dominate what it could or would dare do or conclude. He made the self-serving notation suggesting the opposite in an Orwellian rewriting of the history he had made.

64. Another example of news management, again made possible by refusal to comply with my prior FOIA requests for the leaked information, was multitargeted. It was aimed at any change in diplomatic detachment from Cuba as well as at the House Select Assassination Committee. The truth is either still withheld by the FBI or every one of those reporters missed it on December 7, 1977.

65. This leak was to the Washington Post, in November 1976, when I was at the University of Wisconsin at Stevens Point, with my counsel, Mr. Lesar. (I have donated all my records, of the past, the present and the future, to this university system, pursuant to a request of years ago from the Wisconsin Historical Society.)

66. This leak had to do with the taping of Oswald's voice when he spoke by phone to the Cuban and/or Russian embassies in Mexico City in October 1963. So sensational was the treatment of this leak that the entire front page of a Chicago newspaper was devoted to it and to nothing else.

67. It happens that I had learned about this Mexico City interception and taping long before, from a confidential source of my own who was privy to intelligence activities. I had filed FOIA requests. These are among those that are and have totally ignored.

68. I asked Mr. Lesar to telegraph the Attorney General because I had requested the identical information under FOIA and because this partial and misleading account had been given exclusively to a reporter. The reporter was not a subject expert and thus could be used in still another misuse of secret records for news management.

69. Relevant to this particular exploit that I believe can fairly be described as propaganda, there is a five-page letter Director Hoover wrote to the then Secret Service Director, James Rowley, on the day after the assassination. The FBI states

that it is making these records available in chronological order. Certainly the record of November 23, 1963, should have been before the press. Yet I have not seen any story reflecting that any reporter of all those present at the FBI on December 7, 1977, was aware of what Hoover told Rowley. This is that on the very day of the assassination FBI agents in Dallas who were familiar with Oswald had heard the Mexico City tape and seen the Mexico City photographs and said the person was not Lee Harvey Oswald.

70. From my prior reporting experience I assure this Court that such a letter, which Hoover did write and which I have from another source, would have made a news story.

71. Fourteen months have passed since my lawyer telegraphed the Attorney General about noncompliance with these of my requests. In those 14 months we have had no response, no acknowledgment and have received no record pursuant to that FOIA request. From my extensive experiences in such matters and because of my practices with regard to them, I assure this Court that had my requests been met I would have given the information to the press with a correct factual backgrounding. However, if I had had those records, the deception of the country and of the Post would not have been perpetrated.

72. With regard to the Pedro Charles fakes and the self-serving Hoover notations, the only paper that consulted me prior to writing the first stories was the Washington Post. The Post is the only newspaper of which I know that handled both of these elements of the released records accurately and fairly and not as official propaganda. To the best of my knowledge, all other papers and all other elements of the press were misled and in turn misled the country. By the time the others learned the truth, it was too late. The false story had received enormous attention. The content of people's minds cannot be erased.

73. I know the problems for reporters who are faced with pressing deadlines and 40,001 pages of strange records on which to report. I have been a reporter and I have gone over more than 40,001 pages of FBI records. I know personally the great problems such an accumulation of records presents, even to a subject expert, which reporters cannot be in situations like those of December 7 and the one before us. It simply is not possible to assimilate and report on so much information. The word and guidance of officials has to be sought and heeded. This is what did happen with the December 7, 1977, spectacular.

74. If the Department, including the FBI, had not violated the Act and denied all my many requests for this information, it could not have used the release of these records in what has become a successful propaganda effort and a new means of denying access. This means is from the sheer volume and cost. If my requests had been complied with, over a period of time now going back for a decade, I would have made the information available in an orderly way and in a comprehensible manner.

75. There are many instances in addition to those used above as illustrations. One that I anticipate, based on confidential information I have received, has been made possible by the denial of still another of my FOIA requests of long ago. That one has to do with Army Intelligence reports and a photograph or photographs taken by an Army Intelligence agent. I have reason to believe that within the past month the FBI has played games with the House committee with regard to this information. Unless my now informing the Court forestalls what I know the FBI has done with the identical information it denied to me, there will be another disinformation operation, another misleading of the people, and another official obfuscation in the long and painful history of obfuscations relating to the assassination of the President.

76. My efforts to obtain the Army's copies of these same records have yielded the response that they no longer exist in any Army files and, incredible as it may seem, that all the Army's records relating to the assassination of the President have been destroyed. The FBI alone has the records.

77. When I requested this information from the Department of Justice, I was required to accompany the request with a check. My check was cashed but I received nothing for it.

78. Departmental resentment over my making FOIA requests so angered one official that one of my checks of that period was shredded. It was then put together with Scotch tape and cashed. I believe this was to reduce my resources by that small amount. (I also received nothing for that check.)

79. My statement that it is the official intent to "stop" me and my writing is not a presumption or interpretation. It is stated explicitly in records I have obtained from the FBI. It is reflected in records of the CIA.

80. Of all my more than two dozen requests of the FBI, there is only one with which to the best of my recollection there has been full compliance outside of court. The FBI sold me a single record I had asked for much earlier. It provided that record long after I had obtained it from the National Archives.

81. There is one request with which the FBI is in partial compliance. That is my request for the records relating to me. There has been no response to my appeals from denial although months have passed since I addressed them to both the FBI and to the other components of the Department.

82. The minor percentage of the existing records I have received state the intent to "stop" me and state also that this is because of my writing. One such record is the recommendation of S.A. Marion Williams, a laboratory official, that my request for nonsecret laboratory material be ignored because the FBI does not like me or my writing.

83. The FBI's records on me are loaded with fabrications. Some of these are irrational. They are characterized by distortions, gross misrepresentations and omissions. They contain admissions that the FBI had lied about me to another agency.

84. By simply refusing to respond to my PA appeals, the FBI and other components of the Department have effectively negated my rights under the Privacy Act. Where I have corrected in writing the gross errors in what I was given, I have received not even an acknowledgment of receipt, even though an FBI agent mentioned having found my letter illuminating. I cannot correct decades of FBI Cointelpro-type records without having those copies that are mine as a matter of right under the Act. The FBI is aware of my intention to release all these records once I have obtained all of them and have had the opportunity to correct error.

85. From a long and costly personal experience, I state that forcing me into unnecessary litigation is one of the official intentions because that does "stop" me. It is clear that I will not obtain the remainder of the records on me without litigation. At my age, from the condition of my health and under my severe financial limitations, to the Department's knowledge this will be extremely burdensome for me. It also will "stop" my writing for that much longer.

86. As Attachment 1 states unequivocally, the FBI is without any regard for what it describes, without any ifs or buts, as its "unconstitutional" acts. With regard to me and to "stopping" me, I believe it has the unconstitutional intent to frustrate and deny my rights as a writer under the First Amendment.

87. Regardless of the FBI's other representations, here and elsewhere, these secret records disclose its actual intentions. In pursuit of them it has forced me into many needless court cases and has engaged in a widespread campaign of personal defamation.

88. It has forced litigation when the Department's own records disclose its own legal opinion that it did not have a legal leg to stand on. One case of this was my C.A. 718-70, in which I sought public and publicly reported court records.

89. Once in court there are virtually no tricks and deceptions not practiced to prolong each case. Perjury is commonplace, as is other false swearing. Repeatedly, agents swear to the nonexistence of records their own searches disclosed ultimately. I have obtained some of the records sworn not to have existed

90. These and countless other dirty tricks have been effective in "stopping" me, but it has been at the cost of much wasted taxpayer money and large amounts of agent, lawyer and clerical time within the government.

91. The case of S.A. Marion Williams' recommendation that my request not be complied with illustrates this. He did not state = and when he executed an affidavit he failed to state - that the records I sought did not exist. In the nine-year history of that case, the government has yet to file a first-person affidavit attesting that the records sought do not exist. Noncompliance with the request that followed has been extraordinarily costly to the government as well as to me. The initial decisions against me are cited in the Senate debates as the first of four cases requiring the 1974 amendments to the Act, particularly with regard to the investigatory files exemption.

92. I believe that this legislative change in the Act increased the FBI's dislike of me and its determination to damage me and my work.

93. As a result of noncompliance this one case has been to the Supreme Court, has been before the court of appeals panels twice, has been before the appeals court in an en banc session and is now before the appeals court once again. There have been more calendar calls before two different district courts, before and after remand, than I can recall. After nine years the FBI still has not searched all the files in which relevant records are kept. It has refused to search those other files I have been able to identify as holding still withheld records.

94. The last time I was before the court of appeals it held that what I do serves the nation's interest. It directed that I take first-person testimony from former FBI agents. To do this I was put to what for me is considerable extra expenditure of time and money. From it there neither is nor was any possibility of personal profit

95. It has become almost routine for Assistant United States Attorneys to

fail to forward court papers to the Department until long after time for response has passed. This is merely one of the many methods by which these cases are stalled and by which life's time clock on me is run in the official effort to interfere with what I can do and write and publish.

96. There was this alleged forgetfulness in this instant case.

97. The FBI's wide distribution of false and defamatory records about me, although it is done with secrecy, is another means of interfering in my life, my First Amendment rights and my rights under the Freedom of Information and Privacy Acts. What I have obtained in another case and in the limited compliance there has been with my Privacy Act request leaves no doubt about this or the purpose of it.

98. The FBI has my FOIA requests filed under "Internal Security."

99. One of the FBI fabrications is that my wife and I celebrated the Russian Revolution every year. In this the FBI contorted an annual religious gathering at a farm we then owned, that gathering being immediately after the Jewish high holidays. (They are in September, not November, the date of the Russian Revolution.)

100. In 1966 the President became interested in published criticism of the Warren Report and of the FBI. The FBI then sent him this and other vicious libels, thereby not only damaging me but controlling and otherwise influencing what the President could think and know about an important national issue.

101. With the filing of my FOIA requests and cases, the identical as well other libels were distributed throughout the FBI and elsewhere in the Department. To the best of my recollection, no Attorney General and no Deputy Attorney General was overlooked.

102. When the sixth circuit court of appeals ordered an evidentiary hearing for James Earl Ray, the FBI gave its "information" about me to its Memphis Field Office with directions that it be used in Memphis. (As paragraph 31 states, I was the unpaid investigator whose work was successful in the habeas corpus petition and I conducted the investigation for that evidentiary hearing. Both were embarrassing to the FBI.) Although the Memphis Field Office was directed to report back to FBI headquarters on the uses it had made of the records sent to it, no such record has been provided to me. I have asked for it repeatedly.

103. Illustrative of FBI distortions that involve fabrications is what it did in June of 1969. The Criminal Division asked me to go to the Internal Security Division, which had indicted certain Americans and others for illegal exile activities.

I had files on some of these people. I had interviewed some under conditions of no restraint upon my use.

104. Under date of October 15, 1969, the Internal Security Division wrote the Director stating clearly that the purpose of my visit was to provide information relating to these exile activities that had resulted in an indictment. It also reported my having told it of information I had received that certain FBI informants had offered money to J. B. Stoner of the so-called National States Rights Party (NSRP) for acts of racial violence. (Attachment 2)

105. This was long before disclosure of all the many illegal and violent acts by FBI informants, before there was any knowledge of its Cointelpro and other similar activities. I therefore informed the Department lawyer, asking that he inform the FBI. I then had the naive belief that Mr. Hoover would not have approved of FBI provocations to racial violence.

106. Although this October 15 memorandum neither says nor implies any such thing, by the time the FBI hierarchy finished kicking it around and embellishing it, they had twisted this into my conspiring with Mr. Stoner "to discredit the Bureau" with "unwarranted, scurrilous allegations." This is as opposite what I actually did and said as I can conceive of anything being. I was warning the FBI against the embarrassment that has taken eight years to surface. (Attachment 3)

107. The basic belief of the NSRP is, approximately, the only thing wrong with niggers is Jews. I am a Jew. Mr. Stoner then was counsel to James Earl Ray. This is how I know him. He was the source of the information I gave the Department. In September 1977 he was charged with a racial bombing by the State of Alabama. He immediately announced that he had been framed by the FBI through its Cointelpro informants. (Attachment 4) If what Mr. Stoner told me is true, his source was another racist, Al Lingo, then head of the Alabama Highway Patrol. Mr. Lingo showed Mr. Stoner the FBI's reports on Mr. Stoner.

108. Another of the FBI's plans to "stop" me was conniving with an agent, Lyndal Shaneyfelt, who was to have filed a spurious libel suit against me. The FBI spent public moneys to conduct the legal research that would enable Shaneyfelt to argue that he was not a public figure. However, this little conspiracy of 1967 was dropped when they chickened out. I learned about it in 1977. I then wrote Shaneyfelt a letter in which I waived the statute of limitations so he could sue me. He has not responded.

109. From my extensive personal experience, nothing prevents FBI stonewalling and nothing persuades it to live within FOIA. Instead, in this instant case, it berates me.

110. The allegation that I seek the records in question for my own personal and selfish uses is baseless. It is false. It is contradicted by the Department's prior knowledge of my disposition of my records.

111. I first heard of the coming releases in early November from the FBI's leak of it to a Dallas newspaper. My files reflect that on November 5, 1977, I wrote two other persons who have an interest in the same subject. One might say they are competitors because both have published books and both have strong disagreements with me. One is in Washington, the other in California. I notified both that I would be asking for these records and that if I obtained them I would make them available to all who wanted to make copies without paying the FBI's higher charges. I believe this is directly opposite the baseless allegations of Mr. Shea.

112. The FBI arranged for me not to receive notification of the availability of these records until the day before they were opened to inspection. When I received the FBI's notification on December 6, 1977, if examining those records at the FBI's reading room were within my medical limitations, as it is not, I still could not have been there because of an earlier medical appointment. I believe it was not necessary to delay notification and that the first release date had been set earlier.

113. The FBI arranged for the identical trick to be played on my counsel and on me with regard to the matter presently before this Court. Government counsel kept assuring my counsel he would have time and that the FBI had not yet set the release date. Not until January 12 was my counsel informed that the date of January 18 had been decided upon.

114. However, on January 10, while government counsel was assuring my counsel that the date had not been set, FBI Headquarters phoned Paul Hoch, in Berkeley, California (Attachment 5) and told him the release would be on January 18. I was not telephoned. The letter the FBI sent me is dated January 10. That letter required four days to travel 50 miles. It reached me on January 14. In this manner the Department lulled my counsel and me into the belief we would have adequate time to prepare for the hearing of January 16 while guaranteeing that we would not have time.

115. On December 6, the day before the release, I learned that it totaled 40,001 pages. From personal experience I knew this is a mass nobody can encompass and that there would be extensive withholdings. I believed it would also become a new form of news management. On December 6, for these and other reasons, I sent a new FOIA request relative to these records to the FBI. It is for the worksheets of the processing of the records that were released. I have found countless instances of improper withholding from prior examination of such worksheets. Worksheets are not restricted. They have been provided to me in another case and to others in this case. (Attachment 6)

116. In the 39 days since I filed this FOIA request, the FBI has not even acknowledged receipt of that FOIA request.

HAROLD WEISBERG

Washington
District of Columbia

Before me this _____ day of January 1978 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires _____

Notary Public in and for the
District of Columbia