IN THE

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Appellant, v. U.S. DEPARTMENT OF JUSTICE, Appellee	No. 78-1107

AFFIDAVIT

My name is Harold Weisberg. I am the plaintiff-appellant in this case. I live at Route 12, Frederick, Maryland.

1. I am aware that ordinarily new information is not presented to the Court of Appeals. Because of the Department's baseless allegation in its Opposition of December 27, 1978, that I possessed the information provided in my Addendum when this case was before the district court, I provide full details on when and how I obtained and learned of the additional new information presented in this affidavit.

2. This information is in five cartons of FBI files I received on Friday, January 5, 1979. I saw the records referred to for the first time at about 5 a.m. Sunday, January 7, under circumstances described below. This information relates to the honesty of the Department's representations to this Court and the district court. It supports my prior affidavits, discloses the need for there to have been a search of Dallas FBI Field Office files for compliance in this instant case, and reflects the FBI's knowledge of this.

3. All of my files, records and work of any nature have been given to the

University of Wisconsin (Stevens Point Branch) as a result of a request made of me years ago by the Wisconsin Historical Society. I began the deposit in November 1976 after a meeting with the then chancellor of the university, now the governor of Wisconsin.

4. In order to preserve the integrity of all the records I receive under FOIA, I keep them in the form in which I receive them. I do not take any bound file or volume apart myself. I do not remove any copies for my own use. Instead, as I read each volume, I make notes indicating those of which I want copies for my work or to send to others. My wife then makes the copies indicated, keeping each volume intact, as I received it.

5. I also keep separate all original records I receive under FOIA. They are in a large number of filing cabinets in my basement. To facilitate their use by others, including the press, I have installed a table and chairs and extra lighting near them. If reporters or any others desire copies, we follow the procedure outlined in the preceding paragraph, keeping the original records exactly as I received them.

6. While doing this is burdensome and in our circumstances costly for us, my wife and I believe that this is absolutely essential to preserve the integrity of the records for the future because of their considerable historical importance. The Attorney General has determined the areas of my work are subjects of exceptional historical importance.

7. Because of our age, health and other limitations, it is impossible for my wife and me to do all that is necessary to file these records with the care and precision we believe is required. We are both past 65, both of impaired health, and my only regular income is from Social Security. Neither my wife nor I is now able to do some of the bending that is required by this filing. My

wife is not able to do the lifting and I am not able to do the standing that is required. I have had a local college student caring for these records on a part-time basis. She placed those records she handled in file folders, each identifying the material held, and began to make a card file so that those using the records would know which volumes and serials of what files there are.

8. This student has obtained a permanent job she intends to follow as her life's work. This means that until I can find other assistance, which is not easy out in the country and when I cannot pay for a full-time assistant, I have fallen behind in filing the records I have received. When I receive as many as 5,000 pages at a time, I have been able to do this work myself and I have done it. When I receive a larger volume of records, it now is impossible for me to set up the files. I am keeping the records as I receive them until I locate a new part-time assistant. To date the records I received on January 5 are the second batch I have not been able to file.

9. It is only by accident that I learned of what I herein report to the Court. Ordinarily, I would have carried these large cartons of records down to the basement filing area. If I wait a period of time after each trip, this effort is within my present normal physical capability. However, I suddenly lost consciousness on the Saturday before Christmas, without any apparent cause. From what my doctor told me, this was connected with my circulatory impairments. Thereafter, when I carried a different carton up from the basement, it was too much for me. For this reason I stacked the five large cartons I received from the FBI on Friday, January 5, one atop the other against a wall in my livingroom where they remain. I expected a guest who would be able to move these cartons for me on Sunday, January 7.

10. Contrary to prior FBI practice, there was no letter covering these five

cartons or it was delayed in the mail. I therefore did not know the content of the five cartons or why they were sent to me.

11. The guest expected is Howard Roffman, a young lawyer who moved to the Washington area recently after serving as clerk to a federal appeals court judge. Aside from being a close personal friend, Mr. Roffman is one of the few authentic subject experts, as distinguished from those who have commercialized the assassination of President Kennedy and those who in other ways have been irresponsible.

12. When I arise, usually about 4 a.m. or not long thereafter, it is my practice to launder the special venous supports I am required to wear. These are dried first by wrapping in a thick towel for about 10 minutes, then by air drying. On Sunday, January 7, with about five minutes to wait before completion of this daily chore and knowing Mr. Roffman would be interested in the content of the cartons, I opened the top one in the stack so I could inform him or so that, if he desired, he could examine the records.

13. The cartons used by the FBI are about a foot and a half long. They are high enough for several volumes to be included in a horizontal position on top of those that are packed tightly on a long side in a vertical position. Five volumes of FBI Headquarters File 62-109060 were packed in this horizontal position in the carton I opened. These are captioned "The Assassination" and are labeled "WORK COPY" on their cover sheets. They are identified as Volumes 1-5 of Serial 4180 EBF.

14. Superficial examination of these five volumes disclosed that all relate to FBI Laboratory records sent to the Dallas Field Office. They relate to other Laboratory testing, the analysis of specimens like samples of writing. However, the first record I noted in Volume 3 includes an empty cartridge case allegedly connected with the assassination and thus within my request. These five volumes do disclose the FBI practice of which I have informed both courts and to which

retired FBI SA Robert Frazier testified, that of sending all information to the Office of Origin, Dallas in this case. I have no way of knowing whether these five cartons hold other relevant information.

15. In the absence of any explanatory communication from the FBI, I cannot with certainty attest to the reason for sending me these five cartons of about 100 linear inches of records. I believe they are pursuant to the January 16, 1978, Order of Judge Gesell in my C.A. 77-2155. This required that the FBI promptly provide me with copies of the records relating to the assassination of President Kennedy that were made public with great fanfare in December 1977 and January 1978. I believe they also are pursuant to the subsequent administrative decision of the Department of Justice relating to the public role I serve in this matter, also requiring that all such records be provided to me. If I am correct in this, then these records are almost a year late in reaching me and appear to have been delayed until after it would ordinarily be too late for me to inform any court about their content.

16. If there is another possible explanation, from the content of these five volumes it cannot relate to any secrecy of source, process or procedure or to any exemption of the Act.

17. FBI Headquarters File 62-109060, of which these five volumes of Serial 4180 EBF are part, definitely is one of the files included within my C.A. 77-2155, the Order in that case, and the Department's subsequent administrative decision referred to in Paragraph 15 above.

18. All records relating to the processing and release of this and other relevant files are within my C.A. 78-0249. In that case the Department moved for dismissal or summary judgment months ago, prior to providing me with either these five cartons of relevant records or any records relating to their processing.

19. Affidavits making false claim to complete compliance in C.A. 78-0249 were provided by the FBI. Its FOIA Unit, which processed and provided the records referred to in this affidavit, also filed a false and misleading affidavit attesting to full compliance in C.A. 78-0249 by the since dismissed supervising FBI Special agent who is the unindicted co-conspirator referred to in my affidavit in this instant cause filed the very day I received these records, Friday, January 5, 1979.

20. It is beyond reasonable question that the 15,000 or more pages of records I did not receive until January 5, 1979, include records relevant in this instant cause, despite contrary assurances by the Department and its counsel.

21. For the reasons stated above and for other reasons, examination of all these many thousands of pages is impossible for me at this time. Because of the manner of binding the records, it is unsafe for me to remove those that are packed tightly on their sides for any further examination until they can be placed in file folders. The FBI binds the volumes it provides me without using the closing half of the "Acco"-type fastener. This means that the prongs of the half of the fastening device used are merely bent over and can tear records or, if forced back into the tightly-packed cartons, can cut me. I also dare not risk this because I live on a high dosage of blood anticoagulant and am under strict medical injunction against cutting or even bruising myself.

22. Another reason is the absence of the FBI's covering letter required to identify the records on the file folders.

23. However, the five volumes of Serial 4180EBF reflect the standard FBI practice of which I informed this and the district court, the practice of sending <u>all</u> relevant records to the Dallas Field Office from which I have received <u>no</u> such records in this instant cause. In addition, these five volumes begin with hand-written notations that go farther than I have previously informed any court. These

notations tabulate FBI Laboratory Identification Numbers with FBI Specimen Numbers, correlating each identification with the other.

24. From the foregoing, I believe it is certain that the FBI FOIA Unit knows that all assurances of compliance made in this instant cause and the others cited are not truthful and from this the Department and the FBI are aware of the untruthfulness. The FBI FOIA Unit is under the direction of a Deputy Assistant Director of the FBI.

25. In this case it is not possible that Department and FBI counsel are not aware of the untruthfulness of representations made to both courts and, in fact, I have personal knowledge of their awareness. I informed Assistant United States Attorney Michael Ryan beginning early in C.A. 75-226. Face-to-face and in writing I protested his false representations to the district court. I believe I also wrote the United States Attorney about this. AUSA Ryan and Emil Moschella of the FBI Office of Legal Counsel were both present when, on deposition, Mr. Frazier testified to the sending of all relevant records to the Dallas Field Office. In addition, in conferences with the Civil Division centering around C.A. 75-1996, I also gave this information to various Department legal and FOIA personnel. I then explained how this caused noncompliance and unnecessary litigation. I was given repeated assurances of awareness of these malpractices. I was told the Department was determined to end them and in an "only you, Dick Daring" sense of the Department's desire to use me and my special knowledge and expertise to effectuate this. As a result I was dragooned into serving as the Department's "consultant" in C.A. 75-1996 and, as I have attested, have not been paid nor had my cash costs replaced. In addition to all of this, a number of Department officials testified on this before a Senate committee and confessed awareness of the abuses to which I attest. They assured the Senate that these were going to end. Those who

testified include the deputy chief of the Civil Division, the head of its FOIA litigation section and the FBI's Deputy Assistant Director who is in charge of FOIA work.

26. There is another remarkable coincidence in the timing of my receipt of these previously-withheld FBI records relating to its investigation of the assassination of President Kennedy. These records were withheld until immediately after the end of the life of the House Select Committee on Assassinations. The appearance is of withholding these records until the committee's legal existence ended or until it was not possible for that committee to hold any hearings involving the FBI.

27. The committee's final hearing, on December 29, 1978, was on evidence about which the FBI Laboratory was either grossly negligent in not developing or it withheld records of its work from both the Presidential Commission and the House committee.

28. The testimony was to expert analysis of a segment of the recorded Dallas police broadcasts in which by some mysterious manner an open microphone caused a constant broadcast that blocked use of that police communications channel at precisely the time the President was assassinated. The FBI had had this recording and had transcribed the audibly intelligible portions for the Warren Commission. This analysis caused the committee to alter its conclusions and to conclude that the President was assassinated as the result of a conspiracy. This conclusion is opposed to that of the FBI and the Warren Commission. The reasons for the changed committee conclusions are that shots were fired from two different places and more shots were fired than the available time permitted one person to fire. Each factor eliminates the possibility of a nonconspiratorial assassination. (One member of the committee, Congressman Christopher Dodd, is quoted in the press as insisting

there were three assassins. He is also quoted as having asked the committee's chief counsel on December 29 about the finding of still another bullet fragment in the President's limousine and as not having received an answer. No such fragment has been acknowledged publicly by the FBI and no reports of any tests on it have been provided to me in this instant cause. (See Paragraph 30 below.) As my prior affidavit and the expert testimony before the House committee reflect, the kind of scientific analysis just made for the committee was possible in 1964, when a similar test was made of a different recording. The foregoing alone is enough for the FBI not to want to attract any further attention to itself, as newly disclosed records could cause.

29. As the record in this case reflects, there is Department and FBI motive for withholding going back to virtually the moment of the assassination. Before there was a Presidential Commission, the FBI was directed by the President to make and report on a thorough investigation. I have studied that FBI report, which is of five volumes. In reporting on its investigation of so momentous a crime, the FBI did not report all the shots publicly known to have been fired, did not even mention the name of the third man wounded or that he had been wounded, and in fact did not even mention all the President's known wounds. All of this was in accord with the FBI's prior determination to ordain that there had been a lone-nut assassin,

> a conclusion that could not coexist with fact,
>
> a conclusion given the superficial appearance of tenability by withholding information and by misrepresentations from the moment of the crime to this point in this instant cause in which the records sought, if provided, could enable a total destruction of the lone-nut preconception that controlled the investigation.

This could destroy the integrity of all involved. It would be without question that this most terrible of crimes in a nation such as ours was and remains unsolved.

30. After I executed my previous affidavit and sent it to my counsel, I received and read a copy of the CBS transcript of Committee Chairman Louis Stokes' appearance on "Face the Nation" on Sunday, December 31. The questions of specimens that do not match their official descriptions and of missing fragments came up in questioning by George Lardner, Jr., of the Washington Post. (Pages 10 and 11 are attached as Exhibit 1) While the chairman's replies do not appear to be responsive, he did not dispute that the known fragments "didn't match" and that "fragments aren't there that were supposed to be there, according to your expert," Dr. Vincent P. Guinn. I have not received any reports relating to other fragments, those not matching the official specimens, or any reports relating to any missing fragments.

31. After I had prepared this affidavit, I received the FBI's letter covering the five cartons of records heretofore referred to. (Letter attached as Exhibit 2) This letter was not written until the day I actually received the five cartons in question. I received it on Monday, January 8. While the letter is indefinite, evasive and vague, all without legitimate need, and is what within my experience has become one of the FBI's now regular means of creating unnecessary confusion and extra work and other problems for me, it is unequivocal in one regard: these records are those I presumed, from FBI Headquarters. These are records I was to have received a year ago under Departmental administrative decision and court Order.

32. The letter does not identify the FOIA request. Although the FBI assigns sequential numbers to them, the letter cites none. It makes no reference to the relevant court Order or administrative decision. It also refers to the request as under the Privacy Act when obviously material "pertaining to the Assassination of President Kennedy, from investigative files" of the FBI, is not available to me under that Act.

33. That these records were in fact to have been provided a year ago is

established by the FBI's December 2, 1977, letter to me, attached as Exhibit 3. This letter states that the Headquarters records were to have been disclosed in full on two occasions. Of the second, the date of which had not then been set, it states that "A later second segment release will cover the balance of our substantive investigation concerning this historical event." (emphasis added) If there were records of other than "our substantive investigation," no such description can be applied to records relating to the Laboratory's scientific analysis of and reporting on evidentiary specimens.

34. That I was to receive the entire Headquarters file and that in fact this was under court Order was confirmed by the FBI under date of January 18, 1978. (Exhibit 4) That this was to be "the entire second release" is stated by the paragraph added to the form letter. As Exhibit 3 established, this was to have been the "balance" of those files.

35. Further checking after I received the January 5, 1979, letter discloses that on January 16, 1978, the FBI described the assassination file I received as "our total JFK Assassination investigation." (Exhibit 5, emphasis added) It is now apparent that this and the representation of my having received either the "balance" of or the "entire" file are all false and to the knowledge of the FBI were false at the time of the filing of the Opposition in this instant cause.

36. These five volumes that I saw for the first time early on the Sunday morning after my previous affidavit was filed leave no doubt about misstatement and misrepresentation in the Opposition (page 3, line 9ff.): "There is no indication that these memoranda have anything to do with the retention of scientific test results generated in the FBI Laboratory in Washington." I cannot conceive how anyone having anything to do with prosecutions involving FBI investigations and Laboratory testing would not know better than this. Moreover, these five volumes disclose that the originals of the reports were sent to Dallas. Carbon

copies were retained in FBI Headquarters files. FBI regulations and practice preclude the destruction of originals, as my prior affidavit establishes. From the extent of the Dallas "bulkies" there is little doubt about their retention or about compliance with the directives reflected in the Dallas records I obtained under C.A. 78-0322. (These are the records the Opposition would have this Court reject as "irrelevant.") The FBI's own recent count of the Dallas "bulkies" is of more than 25,000 pages, hardly a reflection of nonretention.

37. In addition, and once again reflecting the fact that more records are in the Office of Origin, Dallas, the Dallas "bulkies" are of eight cartons, compared with only five cartons of identical size holding Headquarters "bulkies." If every Headquarters "bulky" record is duplicated in the Dallas, there remain about 10,000 additional "bulky" pages in Dallas. This, too, addresses "retention" and of the kinds of materials sought in this instant cause and referred to in the Opposition.

38. If there is any doubt that experienced prosecutors were not unaware of the practices, policies and established regular procedures I report, and from my extensive study of many thousands of records reflecting such prosecutorial knowledge, I believe there should be none. It is completely impossible that the FBI was not aware of its own everyday policies, practices, established procedures and controlling regulations. I therefore believe that the Department's misrepresentations, misstatements and deceptions explicated in this and my prior affidavit are not accidental and have the intent of misleading the courts, wasting me by wasting my time, and defrauding me and, through me, defrauding the country of the records sought in this instant cause.

HAROLD WEISBERG

Before me this 9th day of January 1979 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires 7-1-82

Diane J. Settle
NOTARY PUBLIC

sinister in that?

REP. STOKES: Well, the testimony we received was to the effect that within a period of twenty-four hours that J. Edgar Hoover and the FBI had concluded that James Earl Ray was the assassin, that he had acted alone, and for that reason, they then pressed the case as a fugitive case rather than looking into it with conspiratorial aspects. And, of course, there is other testimony that we received from the FBI in which they said that they did pursue it from a conspiratorial aspect. But I suspect that the Committee is pretty much unanimous in this feeling that they did not really pursue it from a conspiratorial aspect, and that/ in that respect, they performed their duties inadequately and they were negligent.

LARDNER: Let me ask you about the Kennedy assassination and one of the loose ends the Committee seems to have left in its hearings. Now that it said that another bullet was fired, there was testimony in September by one of your experts who did neutron activation tests on the bullet fragments, and he said that the fragments he got didn't match in weight the fragments that he was supposed to get. Are you doing anything to find any missing fragments of bullets that might have been involved in that assassination?

REP. STOKES: No, we don't make any further reference to any recommendations that additional neutron activation analysis be done.

LARDNER: No, I was asking about fragments that aren't there, that were supposed to be there, according to your expert.

REP. STOKES: Well, if I understand your question correctly, you ask, are we doing anything--

LARDNER: Are you causing a search for those?

REP. STOKES: No, we are not.

MORTON: Do you--you do agree, Mr. Chairman, that James Earl Ray was the assassin in the King murder?

REP. STOKES: Yes, we do, Mr. Morton.

MORTON: Was he paid for that, do you think? You, personally.

REP. STOKES: The Committee, in its open hearings conducted testimony with reference to the Committee's findings in that area. And I think it is the conclusion of the Committee, that he was not paid, he did not get the money.

MORTON: Well, where is the conspiracy then?

REP. STOKES: Well, the conspiracy is with reference to the city of St. Louis where there was testimony regarding a man by the name of Kaufman and a man by the name of Sutherland. And the testimony in the open hearing by Mr. Byers, who said that he was offered $50,000 by Mr. Sutherland to kill Dr. Martin Luther King, after having been taken to the home of Mr. Sutherland by Mr. Kaufman. And, our investigation has revealed, through certain associations, the communication we feel of that offer to--to James Earl Ray.

LARDNER: Directly? Do you have a direct link to Ray that you feel you'll be detailing in your final report?

REP. STOKES: We feel that through the process of associations that we will be able, circumstantially, to be able to connect James Earl Ray to that conspiracy.

No. 78-1107 EXHIBIT 2

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 5, 1979

Mr. Harold Weisberg
Route 12 - Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your Freedom of Information-Privacy Acts (FOIPA) request for material, pertaining to the Assassination of President John F. Kennedy, from the investigative files maintained at Federal Bureau of Investigation (FBI) Headquarters in Washington, D. C.

The processing of the enclosures behind file and the bulky enclosures has been completed and the material is being furnished to you. The shipment will consist of five cartons and will be forwarded to you under separate cover.

Excisions have been made from these documents and other documents have been withheld in their entirety in order to withhold materials which are exempted from disclosure by the following subsections of Title 5, United States Code, Section 552:

(b)(1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy;

(b)(2) materials related solely to the internal rules and practices of the FBI;

(b)(3) information specifically exempted from disclosure by statute;

(b)(6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7) investigatory records compiled for law enforcement purposes, the disclosure of which would:

(C) constitute an unwarranted invasion of the personal privacy of another person;

(D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means;

(E) disclose investigative techniques and procedures, thereby impairing their future effectiveness.

Sincerely yours,

Allen H. McCreight/mw

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

No. 78-1107 EXHIBIT 3

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 2, 1977

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to the Federal Bureau of Investigation's (FBI) forthcoming release of file materials, under the Freedom of Information Act (FOIA), concerning the assassination of President John F. Kennedy.

The first segment of these materials will be made available beginning 9:30 a.m., December 7, 1977, in Room 1060, J. Edgar Hoover Building, 10th Street and Pennsylvania Avenue, Washington, D. C. Two sets of the materials will be made available during business hours for public review.

We normally require 48 hours advance notice from individuals who desire to make an appointment to review materials in our reading room. However, with respect to this release, no appointments are necessary for the first week. You may contact us at telephone number 324-3520 for any later appointment.

Due to limitations in space available for reviewing documents, each news organization is requested to limit the number of reviewers to two per session.

Materials to be released are copies from the raw investigative files of the FBI as they were compiled chronologically in our central records system during the investigation. Details of the substantive investigation were incorporated in reports which the FBI furnished in 1964 to the President's Commission on the Assassination of President Kennedy (Warren Commission). As you may be aware, many of these FBI investigative reports became part of the documentary record made public with the Warren Commission's testimony and exhibits in 1964, and subsequently made available in the National Archives.

FBI DOJ

Mr. Harold Weisberg

Our first segment FOIA release will consist of 40,001 pages of duplicated FBI documents, and will cover the first months of the investigation into President Kennedy's murder in Dallas, Texas, on November 22, 1963. A later second segment release will cover the balance of our substantive investigation concerning this historical event. Pursuant to Title 28, Code of Federal Regulations, 16.9, there is a fee of ten cents per page for duplication. A complete copy of the first segment release can be purchased for $4,000.10.

It will require substantial research effort by interested scholars to relate these FOIA materials to the public record. No index of our FBI materials is available to cross-reference these materials to other records of the assassination investigation, such as the material available at the National Archives.

I hope the above is of assistance to you.

Sincerely yours,

Allen H. McCreight

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

No. 78-1107 EXHIBIT 4

4-694 (Rev. 9-21-77)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
RECORDS DISCLOSURE COVER SHEET
FOI/PA BRANCH
RECORDS MANAGEMENT DIVISION

JAN 18 1978

Subject of Request: JFK Assassination

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Requester:

Enclosed are copies of documents from our files. Excisions have been made from these documents and/or entire documents withheld in order to protect materials which are exempted from disclosure by the following subsections of Title 5, United States Code, Section 552 and Section 552a. The exemption number(s) indicated by a mark appearing in the block to the left of the subsection cited constitutes the authority for withholding the deleted material. (See below and reverse side of this sheet for an explanation of these exemptions.)

Section 552			Section 552a	
[X]	(b) (1)	[ ] (b) (7) (A)	[ ]	(d) (5)
[X]	(b) (2)	[ ] (b) (7) (B)	[ ]	(j) (2)
[X]	(b) (3)	[X] (b) (7) (C)	[ ]	(k) (1)
[ ]	(b) (4)	[X] (b) (7) (D)	[ ]	(k) (2)
[ ]	(b) (5)	[X] (b) (7) (E)	[ ]	(k) (3)
[X]	(b) (6)	[ ] (b) (7) (F)	[ ]	(k) (4)
		[ ] (b) (8)	[ ]	(k) (5)
		[ ] (b) (9)	[ ]	(k) (6)
			[ ]	(k) (7)

The decision to withhold exempt portions of our records is the responsibility of Clarence M. Kelley, Director of the FBI.

[ ] If you believe your name may also have been recorded by the FBI incident to the investigation of other persons or some organization, please advise us of the details describing the specific incident or occurrence and time frame. Thereafter, further effort will be made to locate, retrieve and process any such records.

[ ] Your request for information concerning yourself has been considered in light of the provisions of both the Freedom of Information Act (FOIA) (Title 5, United States Code, Section 552) and the Privacy Act of 1974 (Title 5, United States Code, Section 552a). It has been determined by the Attorney General that requests by individuals seeking information about themselves are governed by the Privacy Act. In addition, as a matter of administrative discretion, any documents which were found to be exempt from disclosure under the Privacy Act were also processed under the provisions of the FOIA. Through these procedures, you have received the greatest degree of access authorized by both laws.

[X] You have thirty days from receipt of this letter to appeal to the Deputy Attorney General from any denial contained herein. Appeals should be directed in writing to the Deputy Attorney General (Attention: Office of Privacy and Information Appeals), Washington, D. C. 20530. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

[X] See additional information on continuation page.

Allen H. McCreight

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

Mr. Harold Weisberg

Pursuant to the court order issued on January 16, 1978, you will be receiving the entire second release of JFK documents. This shipment will consist of sixteen cartons and will be forwarded to you under separate cover. These documents are being released to you without charge.

No. 78-1107 EXHIBIT 5

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 16, 1978

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your Freedom of Information Act (FOIA) request for information pertaining to the Assassination of President John F. Kennedy on November 22, 1963, in Dallas, Texas, and to your request for a reduction in duplication costs.

Your request for a reduction in duplication costs has been granted. Therefore, upon receipt of your check or money order payable to the Federal Bureau of Investigation in the amount of $5,436.30, the material which is presently available will be forwarded to you. This amount is for 90,605 pages at the rate of six cents per page.

We are also including the entire FBI Headquarters administrative file captioned, "Warren Commission" (Bureau file 62-109090), which consists of 8,150 pages. It has been decided to furnish our "Warren Commission" administrative file without cost to requesters of our total JFK Assassination investigation. This is in view of the essentially duplicative character of the administrative material contained in this file, which was also contained in the substantive files being released to you. These substantive investigative files are the files which you are purchasing. The total pages which you will be receiving is 98,755 pages.

Sincerely yours,

Allen H. McCreight

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