UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff, V. WILLIAM H. WEBSTER, FEDERAL BUREAU OF INVESTIGATION, ET AL., Defendants.	Civil Actions Nos. 78-0322 and 78-0420 Combined

AFFIDAVIT

My name is Harold Weisberg. I am the plaintiff in this case. I reside at 7627 Old Receiver Road, Frederick, Maryland.

1. I am generally regarded as the preeminent expert on the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr., and their official investigations. I have published more on these subjects than anyone else, including but not limited to seven books. The first of my books was published in 1965. To this moment, nobody mentioned in them, including FBI agents, has called to my attention any substantial factual error in them or in any of my innumerable public appearances. I am and have been used as a consultant by all elements of the media, here and abroad, ranging from reporters and their editors to publishers and their counsel. The Department of Justice, over my objections, persuaded another court to have me act as its consultant in one of my FOIA suits against the FBI. There are other ways in which the Department has sought my assistance and expertise, going back to the 1930s, when it borrowed me from the staff of the Senate committee, where I was an

investigator and its editor, to assist it in a major prosecution of that period. My pre-Pearl Harbor investigative reporting was followed by criminal prosecutions, the assessing of large fines and the vesting of major corporations. My knowledge and expertise were called upon by the White House under several administrations. I was decorated for my services in intelligence in World War II, when I was an intelligence analyst. Committees of both Houses of Congress have, in recent years, asked for my assistance, as have individual Members, particularly but not exclusively about matters pertaining to these assassinations and their investigations. In 1975, which is prior to my obtaining and examining about a third of a million pages of previously withheld FBI records, this defendant stated to another Court that I am "more familiar with events surrounding the investigation of President Kennedy's assassination than anyone now employed by the FBI." The standard scholarly bibliography in the field rates me as a unique and the preeminent expert.

2. I have extensive experience with this defendant and many defendant's counsel in FOIA matters. I believe it is more extensive experience than that of any other person on the subject of the political assassinations and their official investigations. Bad faith, particularly false statements under oath, characterize all of these FOIA cases. In fact, it was over one such corruption that the Congress amended the investigative-files exemption of the Act. This opened the Pandora boxes of unprecedented agency abuses and evils that now are public knowledge.

3. Because of this and because of the exceptional accuracy of my writing, which also means my exposure of FBI failures and transgressions against honesty, decency and truth, the FBI hates me and regularly uses its great power to defame me and to interfere with my work and my litigation. One of the most vicious of its

innumerable defamatory fabrications was its response to President Lyndon Johnson's inquiry about my work. Instead of addressing fact and my work, which it ignored completely, the FBI actually stated that my wife and I annually celebrated the Russian revolution with a gathering of about 30 persons at our home. I then owned and operated an unusual poultry farm. (I won first prize for the country in raising chickens, I was the national barbecue "king" and my wife was the national chicken-cooking champion.) The only occasion on which that many persons ever were at our farm rather than our "home" was a religious event. It was arranged for and sponsored by a rabbi of the Jewish Welfare Board. It was for Washington area service personnel and their families, immediately after the Jewish high holidays, which are well before the anniversary of the Russian revolution. (We had tame stock, particularly fowl, and the children enjoyed watching eggs hatch, playing with just-hatched chicks, ducklings and goslings, gathering fresh-laid eggs from the nests and playing with our tame livestock. What I did was so popular a public service that the University of Maryland copied it and called that special operation for children its "McDonald's Farm.") The FBI so relished this and similar fabrications and libels that it secretly retailed them throughout out the government, to Department personnel involved in my requests and litigation, to a number of attorneys general and their deputies and to Gongressional committees.

4. In 1937 the FBI decided to "stop" me and my writing, the once-secret word of several FBI SAs, by filing a spurious lawsuit against me. The FBI actually used public moneys and employees in the scheme. Its General Counsel Division concluded that I could be sued. However, the special agent who was to front for the FBI chickened out. Instead, it opted to stonewall my requests and litigation, which has had the effect of "stopping" me and my writing, and to force

unnecessary litigation. This had the effect of bleeding my counsel and me and all the courts we have been before. The most recent of these endless Cointelproings of FBI dirty tricks to "stop" me is the Defendant's First Set of Written Interrogatories and its attached Defendant's First Request for Production of Documents, filed December 6, 1982. Like the omnipresent and immune official untruths that contaminate all my cases, including this instant case, as I detail below, this most recent filing is of consummate bad faith, arrogance and intended evil. It is and it is designed to be not merely burdensome, which it is - it is so extraordinarily burdensome that full compliance is impossible and as close an approximation of full compliance as is possible for me would require at least a year and probably more of my time.

5. As part of this unending campaign to "stop" me and my writing, which it cannot fault, and to ignore my requests, with which it dares not comply honestly, the FBI decided to ignore my requests. It wasted public moneys on alleged legal research which actually concluded that, because it does not like me, under the Act it need not respond to my requests. (I am familiar with the Act and its legislative history. There is no such provision and, in fact, the Act requires requests to receive written responses.) The bureaucrats, who to my knowledge have very much to hide, sought and obtained the Director's approval for this violation of the Act and its purposes. As a result, I have requests going back more than a decade that remain without response. When the Department promised the Senate in 1976 that some 25 ignored requests would be complied with, it lied and those requests remain ignored, <u>including requests for information that also is within this present litigation in which it remains withheld</u>.

6. Stating that the FBI has "very much to hide" is not a

mere figure of speech. To cite two of its many dishonesties in its investigation of the assassination of the President that I have exposed - two it has had many opportunities if not challenges to refute in this litigation and about which it remains totally silent - I cite again the matters of the Charles Bronson film and the patching of the curbstone, both brought to light in this litigation. The Dallas FBI stated that Bronson's motion and still pictures were valueless because they do not show either the building from which the FBI claims Oswald alone fired three shots only in this terrible crime and because they do not permit "identification" of him. In fact, Bronson's motion picture includes almost 100 individual pictures of the very window from which the FBI claims all the shooting came - and Oswald is not in it - and the still picture shows the presidential limousine and its occupants at the very moment of the killing. This information was and is of enormous importance and value, yet the Dallas FBI withheld all knowledge of it from FBIHQ and the Warren Commission on the utterly false claim that it is without any value at all. With regard to the curbstone struck during this shooting and the wounding of a bystander - matters about which the FBI initially withheld all information from President Johnson and the Commission - when it was dug up and flown to the FBI Lab, a page of the Dallas investigative report that was withheld from the Commission states that the curbstone had been patched. Yet the FBI, knowing this, tested the patch instead of the actual damaged portion of the concrete. It then pretended when it knew otherwise (again stated in records I obtained that were withheld from the Commission) that the test results - <u>of the patch!</u> - reflect the impact of the lead core of an Oswald bullet. And then, lo! the spectrographic plate made in this "test", and it alone among many, suffered a strictly prohibited mysterious disappearance from the

FBI's files. With regard to both of these extremely serious matters, if the FBI had not been dishonest, its "solution" to the "crime of the century" would have been destroyed. And, of course, the FBI has yet to explain how the murdered Oswald could have patched that curbstone or how the patching of it by someone else is not indication of the conspiracy the FBI's director ordained, prior to any investigation, did not exist.

7. The foregoing and more of similar character is alleged and is entirely unrefuted in the case record. It is unrefuted because it cannot be refuted, because it comes from official records I would, for the most part, never have obtained if those now doing the processing had not also been corrupted by and come to believe the vicious fabrications and other distortions and untruths about me that are appropriate for the KGBs and Gestapos of the world but not for a basic and essential American agency like the FBI, or the Department, which always provides compliant and unquestioning counsel.

8. In all my FOIA cases against the FBI, including this instant case, the FBI has steadfastly refused to make the required initial searches. The case record on this is clear and unrefuted. In fact, the present FBI case agent, Supervisor John N. Phillips, who has not demonstrated the self-respect required by a denial, does not dispute my allegation that he swears to anything, or my amplification that he gags at nothing to which he swears untruthfully. In an unguarded honest moment, a temporary aberration, he actually swore that in this case the FBI did not make the required searches. Although I stated and repeated this under oath, those searches still have not been made. Instead, in a flagrant display of dishonesty, arrogance and contemptuous disregard for the unrefuted case record, defendant's counsel seeks further to "stop" me and to nullify the Act by attempting to place the FBI's burden of proof on me by this present filing.

9. It is an outrage and it is indecent for the FBI and its counsel to seek to saddle me, particularly because of my age and impaired health, with the enormous amount of entirely unnecessary, if not also equally improper, work demanded in this filing. In it they also state and imply untruths, they deceive, mislead and engage in false pretenses as I specify below, and they fail to claim that any of it is necessary for them to make the required searches or for any other proper purpose.

10. The present question is of searches. In this case that the defendant has stonewalled for so many years, there is no competent attestation to making the required searches. This is because the required searches still have not been made and, as stated above in a moment of temporary, aberrational honesty, Phillips swore that they were not made. Neither the FBI nor its counsel represent that the information sought of me is necessary for the making of these searches and it is not. They therefore have other purposes which are not proper.

11. Neither the FBI nor its counsel have ever claimed that my requests are incomprehensible, unclear or not understood. Neither the defendant nor defendant's counsel requested my assistance or guidance in making any searches. Neither the defendant nor defendant's counsel have stated, including in their present filing, that the information demanded in it is required for the making of searches - and it is not.

12. However, with regard to all matters raised in defendant's present filing, I long ago provided the information pretendedly sought. I provided it in unrefuted affidavits and in about two file drawers of documented appeals.

13. The bland but deliberate ignoring of these affidavits and appeals does not alter the fact that they exist and are unrefuted

and that they provide accurate and undisputed information that in any event the FBI did not require either for searches or for compliance. In large part, this information is from the FBI's own records provided to me in this litigation. Most of the rest is from other FBI records and those of the Warren Commission, whose chief investigative arm the FBI was.

14. It therefore is bad faith merely to make these demands of me, entirely aside from their objectionable, burdensome and improper character. With this bad faith the FBI once again "stops" me for however long it takes to resolve this matter and for the belated searches to be made.

15. It is knowingly and deliberately untruthful to state, as under "Definition" defendant's filing does state, that there are "other persons or entities acting for or on his (my) behalf." It likewise is knowingly and deliberately untrue to state, as this filing does state at the same point, that "'Counsel' means all of plaintiff's attorneys and their assistants, associates, analysts or clerks." The defendant and defendant's counsel do not qualify this ugly attempt at a fishing expedition by asking if there are any such and then, if there are, including them, whether or not properly. Instead, they state untruthfully to this Court that there are "other persons or entities acting for" me and that I have other counsel when there are no such persons or counsel. Perhaps they believe that the KGB has a branch hidden in my woods, or that, instead of having an income of $335 a month from Social Security and no other regular income, I have Moscow gold buried in these woods. This defendant and defendant's counsel are hate-ridden enough to imagine anything, but that does not license them to be untruthful and attempt to slur and to prejudice the Court.

16. Moreover, I have stated under oath that I have no help

and the defendant has not and never has disputed this.

17. In form, each and every interrogatory is similar to the first, which begins by demanding "each and every fact" and "each and every document and/or other source" I relied upon with regard to ticklers. I have proven that ticklers exist, so if this were a proper question or if anything could substitute for or replace the searches not yet made or attested to, that I proved that ticklers do exist is more than is required of me by the Act.

18. The plain and simple truth is that Phillips lied under oath pertaining to these ticklers, to a definition of ticklers and even to what FBI ticklers consist of. The plain and simple truth is that ticklers are indispensable to the FBI and its field offices, no matter how Phillips contorts to misrepresent what they are; that this is an ongoing, active case, not one of dead files only; and that, if only because of the mass and complexity of the FBI's information, ticklers are still required in it. How I know of the creation and existence of these ticklers is none of the business of either the FBI or its counsel. I have proved that they are used and in this have done more than met any obligation I may have. On its part, however, the FBI has the obligation to make a good-faith search for them with due diligence and to provide a competent first-person attestation. It has not.

19. The FBI and its counsel take the identical liberties and make the identical false pretense in Interrogatory 2, which pertains to "material contained in the 'June' files <u>of</u> the Dallas and New Orleans Field Offices." (I underscore "of" because this is an also aberrational truthful representation. For the most part, regurgitating Phillips' rancid cud, the Interrogatories deceive, mislead and misrepresent by referring to what is <u>now</u> physically present "in" those offices. Wherever any pertinant information may

now be, as I have proven without contradiction, it remains the information "of" those offices and is pertinent in this instant cause.) I have provided FBI proof of the existence of pertinent "June" records not provided in my ignored appeals. This also exceeds what the Act requires of me. The FBI, not the plaintiff, is required to make the searches it has not yet made and attested to.

20. Interrogatory 3 misrepresents, misleads and attempts to deceive the Court. It is the boilerplated omnibus/blunderbuss formulation of a demand for "each and every fact ... document and/or other source" for the "contention that the FBI's search in these cases did not encompass records concerning the allegations of Mr. William Walter." It is a deliberate untruth to state that I ever contended that the FBI made these searches. I did not and do not because it has not. It is likewise deliberately and knowingly untruthful to state that I ever stated that I did not receive any records pertaining to this matter. I have not stated that. However, there is, to the knowledge of the FBI and its counsel, a short answer to this manifestation of their bad faith. It is that they have provided what they falsely describe as the search slips in this case and there is no Walter search slip among them.

21. There is a similar falsehood in Interrogatory 4. It is formulated to be untruthful and to have me certify to what is false, that the FBI did make a search for "all films and tapes." My entirely unrefuted affidavits state the exact opposite. Here also there is the SOP trickery of referring only to what is now physically "in" the New Orleans and Dallas files. The films and tapes in question are records of those offices and are pertinent and were never searched for. I have already provided the FBI, its counsel and the Court with the FBI's own identification and description of the place in which they were stored in Dallas and the FBI's own

description of its contents. This certainly is more than is required of an FOIA requester, yet to this day there is no attestation that the required search was made.

21. While the other questions asked under this Interrogatory are improper, unnecessary and an additional attempt to place the burden of proof on me, to underscore the deliberateness of this impropriety and its intent to misrepresent to and deceive and mislead the Court I cite 4(c) because I have provided this information under oath and the FBI and its counsel persist in ignoring that irrefutable proof. It is in their own files and the FBI's own index, which I did search and quote. This subquestion relates to "a tape of the Dallas police radio broadcasts." First of all, there was not a single tape and I did not state that there was. Without dispute, the Dallas FBI office obtained tapes of three entire days of these assassination period broadcasts, all of two different channels, and then transcribed them - in Dallas - for the Warren Commission. The FBI's virtuoso of sworn-to untruth, SA John Phillips, swore falsely that, instead of doing this, the Dallas FBI sent those tapes to the Warren Commission. It is conspicuous that neither he nor anyone else has undertaken to dispute my attestation in any way. The reason is obvious: they cannot. I cited Dallas records to prove that it never sent any of these tapes anywhere, to FBIHQ or to the Commission. Those tapes, therefore, still exist in Dallas and are pertinent records in this case.

23. Despite the detail and documentation of my unrefuted and ignored attestations and the appeals office's directive, no search for these tapes has yet been made and attested to.

24. There is further point in my selection of this to illustrate the deliberate and knowing impropriety of these interrogatories because I have already provided undisputed motive for the

FBI's refusal to search for and its continued withholding of these tapes, even after their production was directed by the Department.

25. The FBI, in Dallas and FBIHQ at the very least, knew that for the crucial five minutes, including the very time of the assassination, all the police broadcasts on one channel were obliterated on the recording, whether or not by accident, by keeping a microphone open. This, however, means that it broadcast whatever it did pick up. The FBI never made any investigation of either an open microphone blocking of the police broadcasts or of what that open microphone picked up and was recorded. This is so untoward an event that it cried out for investigation. Why would anyone want to block out the police radio transmissions of the very moment of the assassination and the succeeding few minutes is an urgent question that required the most vigorous investigation. The field office did not make and FBIHQ did not order it to make any such investigation.

26. Dallas "critics" obtained duplicates of these recordings, of a remote and necessarily less comprehensible generation, Based on the tapes that are considerably inferior to those of the FBI, the House Select Committee on Assassinations engaged a firm of the most respected and prestigious technical experts in the field to make an analysis of these five minutes of that tape. Their conclusion and that of the committee is that there is a fourth shot recorded in those five minutes and that is a complete impossibility with the Oswald rifle. This destroys the FBI's "solution" to that awful crime.

27. Moreover, the FBI did not provide its clear duplicates of these recordings to the panel the Department chose to review the conclusions of the experts hired by the House of Representatives. Thus, the Department's panel had to work with less clear tapes. The Department failed to require the FBI to produce its clear tapes. The Department also arranged for its panel to be outside the reaches of

the FOIA. Department records provided to me outside this instant cause gloat over this strategem, of assuring perpetual secrecy for the records of the Department's own panel.

28. Consistent with all of this is the manner in which the FBI made its tapes and of its withholding of that information from the experts. Instead of taking the Dallas police dictabelts and discs to other machines for dubbing, it used the machines of the Dallas police, both at the same time, in the radio room. Both of those machines, the only ones the Dallas police had, lacked provision for direct dubbing. This means that the recordings had to be played aloud and then picked up by the microphone, which was connected to the FBI's own Wollensak recorder. This means not only that the dub is much less clear than if made by a direct electronic connection, it also means that it was possible for the broadcasts on one channel to be superimposed on the broadcasts of the other channel. All of this is set forth in records provided to me by the FBI in this instant cause.

29. There is reason to believe that some broadcasts on one channel were superimposed on the re-recorded broadcasts of the other channel and that this deceived and mislead the Department's panel and others.

30. Interrogatory 5, which has 10 separately lettered parts, asks the unnecessary and impossible of me. The information requested is not necessary for the FBI to conduct the searches it has not yet made and attested to. The deliberateness of the intent to burden the Court and me is illustrated by the fact that each part begins by demanding "each and every fact" or "each and every organization and person" who figured in the investigation. The Dallas special index is of more than 40 linear feet of 3x5 cards. This Interrogatory also demands how did I "come to the conclusion" and that I "identify each

and every document and/or other source." (The incomplete Dallas record index is 15 feet of index cards.)

31. The bad faith involved in this attempt to get me to waste an appreciable part of what remains of my life for what the FBI does not need to make the searches it has never made is clear in 5(a). It demands "each and every fact" upon which I base my "contention that the FBI's search (sic) in these cases did not include every organization or person who figured in the FBI's investigation ..."

32. First of all, this states what is not true. I did not state that the FBI did make a search, as the Interrogatory falsely represents I did. I did allege that the FBI did not make such searches. Secondly, I attested, without contradiction or even pro forma denial, that the alleged search slips provided in this case first are phony but, although phony, nonetheless list pertinent information not provided. With regard to the persons and organizations, the FBI's records, disclosed in this case and elsewhere, identify the persons and organizations in question. In addition, in an effort to compromise this case, I have provided a partial list. The FBI ignores it.

33. Because the FBI made no search and Phillips swore that it made no search, I could not and did not attest that anything was not "included within the scope of the FBI's search" (quoted from (b) and (d)).

34. Where the parts of this Interrogatory refer to persons and organizations, as I have already attested, their names come from the FBI's own disclosed records, those of the Warren Commission and other public domain sources known to the FBI.

35. If it were necessary for me to provide any information, as it is not, it still would not be necessary for the FBI to know "each and every document and/or source" to make the required searches. I believe it would have required less time and effort for the FBI to

make the required searches that it has not yet made than was required for the preparation and drafting of these entirely unnecessary and deliberately burdensome interrogatories. However, if the FBI had done what the Act clearly requires and not pulled this additional Cointelproing of the Court and me, it would have foregone an opportunity to stonewall disclosure of what is embarrassing to it, to "stop" me, waste my time and further inflate their inflated FOIA cost figures which they have already misused in their campaign against the Act.

36. Where I have stated that certain persons and organizations figure in the investigation, unless the FBI is prepared to disprove my allegations, I believe it is required to search. It has attested to my expertise and it has not disputed my allegations.

37. In (c) the FBI repeats what I have already exposed as its deliberate trickery in referring to what is now physically "in" the Dallas or New Orleans offices rather than to whether or not those are records of the field offices, as without dispute I have proven they are.

38. I cannot list what was "not encompassed within the FBI's search" as demanded by (d) because there was no such search. The FBI and its counsel know this. They also have had ample time and opportunity to contest my attestation that phony search slips were provided and they have not.

39. With regard to the five parts of Interrogatory 5, I have already provided this information in this instant cause, without contradiction or dispute by the FBI.

40. With regard to Interrogatories 8 through 12, I have already provided the information pretendedly sought, albeit not always what is not necessary, how I knew, or "each and every document

and/or source" or when I knew or how, etc.

41. The frivolity of these interrogatories, if not also their dishonesty, is reflected by their being based on untruth. For example, Interrogatory 12 (c) demands that I state "each and every fact" on which I allegedly based my "contention that the FBI's search" did not include certain things. I did not "contend" that the FBI made any search. I have repeatedly attested that it did not and that SA Phillips even swore that, instead of making the required searches, SA Thomas Bresson at FBIHQ decided what field office records would be processed. I believe that by their constant repetition of what without refutation the case record proves is untrue, the falsehood that the FBI did make these searches, the FBI and its counsel seek to deceive and mislead the Court. Moreover, I have, without contradiction or even pro forma denial, already proven that the supposed "see" references search slips (Interrogatory 13) are both phony and incomplete, yet they nonetheless identify and list pertinent records not provided.

42. Because I have, without the slightest murmur of disagreement from the FBI or its counsel, proven that these "see" reference slips are phony, do refer nonetheless to pertinent records not provided, and that there are many appropriate "see" references not included in the phonies attested to as genuine by the FBI, I believe it is worse than mere arrogance for the FBI and its counsel now to demand, as their substitute for belated searching and as part of their stonewalling campaign, that I "state every fact upon which" I base my "contention that the FBI has not searched for or provided with (sic) pertinent records identified by way of 'see' references." The undisputed proofs in my ignored and unrefuted affidavits to which copies of these phony search slips are attached leave it

entirely without question "that the FBI has not searched for or provided" the existing and nonexempt records already "identified by way of 'see' references," and the FBI and its counsel know this.

43. Because I have already provided more than enough proof of the FBI's failure to search and its deliberate withholding of pertinent records already "identified" by it, I believe that the permeating bad faith of its entirely improper ploy is magnified by this Interrogatory.

44. Despite my long, painful and costly experience with those in the agencies who resort to devious tricks and devices to frustrate the Act and bleed both requesters and the courts, it nonetheless is incredible to me that the FBI and its counsel would dare demand of me what they know is impossible, as they do in their last Interrogatory, 14. When neither they nor I know or can know what the future holds (although the record shows that they will prolong this case to the degree they can get away with it), they want me to know first of all that there will be "further hearings or proceedings" at which I will produce evidence of any kind, not just what relates to searches not made, and then they want me to "(I)dentify each and every exhibit or other document" I "intend" to use "in any other manner."

45. The FBI and its counsel know very well that, entirely aside from whether or not this Interrogatory is proper, as I believe it is not, it is absolutely impossible for me to provide the information they demand. Despite my long experience with official untruthfulness, I have no way of knowing what new falsehood they will swear to or what new false representation will be made by counsel. Until I know, as I cannot now know, what new liberties they will take with truth and decency, I have no way of knowing what new proofs, if any, in addition to the countless undisputed proofs I have already

provided I may be called upon to provide.

46. The fact is that there was never any need for this matter to be litigated, but the FBI forced it to litigation; no need for it to be prolonged, but the FBI has prolonged it; and that there even now is no need for it to require any "additional hearing" (I am certain I have not presented any live testimony at any such hearing in this case) or any further proceedings. As the Court is aware, I offered a major compromise to end this case long ago and it was rejected out-of-hand by the FBI's counsel.

47. There is no need for me to respond to "Defendant's First Request for Production of Documents" because it is limited to what I "identified or described" in my answers to each of the Interrogatories because I refer only to documents I have already provided. (Only to have them entirely ignored.) However, I do address what the defendant is up to.

48. If I were not old and ill and severely limited in what I can do, as the FBI and its counsel know very well, it would be not merely extraordinarily burdensome for me to do what they demand - it is impossible. It is not possible that they are not aware of this. There thus is the most substantial question about their motives in making any such demands.

49. Under the Act, the burden of proof is on the defendant. In this case the defendant's burden is even greater because of the enormous effort I made to be of assistance when asked by the Department and what I believe is the extraordinary amount of proof and documentation I have already provided. The Act does not impose any such burden on me. I am familiar with it and with its legislative history. I am required only to request identifiable information, and that I have done. There is no claim by the defendant that I have not done this.

50. The defendant's own regulations impose still another obligation and burden: if there is any question at all about my request, I must be consulted and clarification must be sought. At no time has either the FBI or any of its counsel represented that they did not understand my requests. Moreover, on the very day that Judge Oberdorfer recused himself in this case, prior to any calendar call, I notified the FBI's then counsel that the records he told me would be processed did not and could not comply with my requests. Neither then nor since has he or any subsequent counsel or anyone representing the FBI contradicted or disputed what I informed it before the first record was processed in this case. The record proves I was correct.

51. In a further effort to facilitate compliance and aid the FBI, on that same day I reached an agreement with the appeals office to assist in the processing by lending my subject-matter knowledge and expertise. Mr. Shea agreed that the FBI would limit its initial processing to about 5,000 pages and I agreed that when I received those initial 5,000 pages I would review them, specify any improper withholdings and provide any necessary proofs. Because I went directly from Mr. Quinlan J. Shea's office to that of the then FBI counsel, I repeated this agreement to him and asked that he confirm it with Mr. Shea. Instead, FBIHQ, as is now admitted, arbitrarily and capriciously decided without any search at all what it would limit me to. It then proceeded to process all those records and not provide any until the processing of the main files was completed. (The FBI's prior practice was to make disclosure to me after approximately each 400 pages of any files were processed.) That processing is so bad that I believe I can properly demand that all those records be reprocessed.

52. It soon became apparent that the FBI's steadfast refusal to make the required initial searches meant that it would have to be repeating itself over and over again and that it would be required to produce what it withheld improperly. The extent of this is reflected in my undisputed affidavits that the FBI and its counsel continue to ignore. The FBI's own attestations reflect the fact that, after its initial production of records, it was required by the appeals office to provide an even larger number of files.

53. In a further effort to facilitate compliance, I gave the appeals office many appeals and memoranda in which I went to much time, trouble and expense to provide both explanations and documentation. These take up two full file drawers. That represents an extraordinary effort by any FOIA plaintiff.

54. (While these include FBIHQ records, they are inseparable in this litigation because of the FBI's cuteness in withholding non-identical field office records as "previously processed" in the FBIHQ's general JFK assassination records. The FBI has systematically misrepresented to this Court that the FBIHQ records are involved in other of my FOIA litigation. That is not only knowingly untrue, I have not filed suit and those FBIHQ records were not even disclosed in response to my request.)

55. One of the remaining major issues and FBI refusals to search in this case, despite the directive from the Associate Attorney General that it do so, pertains to the FBI's records on and about those known as "critics," of whom I am one. Entirely ignored in this case is the evidence I produced that the FBI had me under electronic surveillance in New Orleans.

56. This is not by any means its only impropriety and intrusion into my life and work. The FBI also sought to damage me

and my books from coast to coast. Its own records (not provided in this litigation) disclose that it prepared four lawyers thereafter planted in a New York TV studio audience to ruin me when my first book appeared; and that one of its symbol informants in San Francisco made a similar effort on a major station when my second book appeared. (Both of these improper efforts backfired on the FBI.) There is every reason to believe that if the FBI ever makes honest disclosure of its records pertaining to the "critics," more of its improper acts will come to light.

57. Regarding this New Orleans electronic surveillance, the FBI's dodge is to allege that I was not the "subject" of any surveillance. Whether I was the "subject" or not is entirely irrelevant and immaterial. But if District Attorney Jim Garrison were, then all such records are additionally pertinent because a separate Item of my requests seeks them.

58. Garrison was under electronic surveillance. The Department disclosed some of the logs but they are not even referred to by the FBI in this case. Garrison's former friend and associate, Pershing Gervais, became an informant. He spoke to Garrison over tapped phones. Gervais also made at least one of those phones available to me, and I did use it. That Garrison was under electronic surveillance, including other phones that I also used, is disclosed in at least two New Orleans files not searched in this instant cause. The existence of those taps and records was disclosed to me in other and unrelated litigation.

59. I believe that an additional purpose of the FBI's present filing is an attempt to rewrite and effectively nullify the Act through my litigation. This would not be the FBI's and the Department's first such effort. Based on my extensive experience and

my knowledge of the amount of work required, I state that if the FBI can get away with its present effort, it will have effectively nullified the Act and the intent of the Congress in enacting and amending FOIA. It would saddle any FOIA plaintiff with a vast amount of work (when there is not even a claim that it is necessary) and place the defendant's burden of proof on the plaintiff. It would make it impossible for most Americans to use FOIA and for most lawyers to represent them. It thus would convert the act requiring disclosure into an Act for the suppression of what the Congress said the people have a right to know, what their government does.

HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 10th day of January 1983 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.
My commission expires July 1, 1986.

LILLIAN WEISBERG NOTARY PUBLIC FREDERICK CO., MD.

Lillian Weisberg
NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND