

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,
et al/,

Defendants.
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: CIVIL ACTIONS NOS. 78-0332
: and 78-0420
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: Consolidated
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AFFIDAVIT

My name is Harold Weisberg. I reside at 7627 Old Receiver Road, Frederick, Maryland. I am the plaintiff in these consolidated cases. My subject-matter expertise, professional experience and medical and physical limitations are stated in my earlier affidavits and have not been disputed by the defendant.

1. Once again it required at least a week for the FBI's filing, its Motion to Dismiss, to reach me because FBI counsel ended its practice of sending copies of all filings to me. I always offered to pay the costs and the FBI always refused to accept payment. I asked my counsel to ask present FBI counsel to send me copies, for which I offered to pay, and I was informed that he refused. I believe that under FOIA I am entitled to receive copies, if not immediately, and that under FBI practice I would not be charged for them. I know of no purpose served by this refusal, by this ending of years-long practice in some cases directed by the court because of my distance from my counsel, other than to cause these inevitable delays. These delays required that my counsel request additional

time had they restricted the information I could provide him. In particular, since this past February, they caused greater delays and problems for him and for me because of lingering additional illnesses that began with bronchitis and was followed by pneumonia, pleurisy, ecchymosis (a kind of internal hemorrhaging that is potentially dangerous for me because I live on a high level of anti-coagulant, which can cause death) and periodic exhaustion that my doctor says can be expected to last for a month after the end of these new illnesses. From the time I received this Motion to Dismiss until Tuesday, June 7, I had at least one medical appointment every working day, more often two and sometimes even three. These, too, seriously reduced the time in which I could prepare information for my counsel and the time I had for preparing it. I also found that making two trips a day to my basement to obtain needed records was too much for me and ended the work I could do that day. These illnesses, added to my permanent physical and medical limitations, delayed preparation of this affidavit. It also will require more time for my wife to retype it because she also suffers the bronchitis that is epidemic in this area and because of her age and other medical problems is more painful and limiting for her.

2. Now that on May 18, 1983, the FBI has moved for sanctions against me, I believe it is necessary for me to show that its Motion to Dismiss is based upon what I regard as fraudulent misrepresentations and to show once again that, although the FBI has not even pretended to support its motion with evidence, the existing and unrefuted evidence in the case record that I have provided proves the FBI's allegations and representations are not truthful. To the best of my recollection I restrict myself in this affidavit to evidence that is in the case record and has not been rebutted by the FBI. In this I am stating that the only unrefuted evidence in the case record is diametrically opposite the FBI's

representations.

3. In my affidavit of May 28, 1983, which I incorporate by reference, I state that the FBI's Motion to Dismiss contains untruthfulness of such a nature it cannot be regarded as accidental error, that it contains misrepresentations and that it and the FBI's prior motion for discovery cannot both be truthful because each is based upon contradictory and inconsistent representation - neither of which is supported by any evidence and neither of which the FBI even pretended to support by any evidence.

4. Inherent in all the FBI's misrepresentations in these consolidated cases, whether these representations be under oath or advanced in pleadings without any claim to any evidentiary support, is the identical and basic concatenation of misrepresentations that I believe constitute fraudulent misrepresentations.

5. I state the belief that an attempt is being made to victimize me by fraudulent ~~mis~~representation based on the evidence that follows and the belief, coming from my extensive FOIA experience with the FBI and its counsel, my knowledge of the intent of the Congress in enacting and amending FOIA (in which I have a well-known involvement because one of my early FOIA cases against the FBI was cited as requiring the 1974 amending of the investigatory files exemption of the Act), from knowledge of the legislative history of FOIA, from FBI regulations and ^{ce}practices, and from the official statements regarding FOIA and its purposes going back to those of the President and Attorney general ⁱⁿ 1966 in their ringing endorsements of the Act and its purposes.

6. I believe that, except for information that is within the exemptions of FOIA, the information I requested is mine as a matter of legal right and, through me, is the information of the people as a matter of their right.

7. I believe that under the Act the burden of proof is exclusively on the

defendant and that under the Act I have a right to expect the defendant to meet the burden of proof and not seek by any means, overt or devious, to impose it upon me or any other plaintiff/requester.

8. The most basic of the FBI's false representations is that my requests are limited to four main files. My actual requests, for reasons restated most recently in my May 28, 1983, affidavit, are quite explicit in stating that they are not so limited. My requests include all pertinent information "not contained within" these FBI main files.

9. In this long litigation, the FBI has never provided any attestation, whether or not truthful or made of personal knowledge, and it has not provided any pleading by counsel that is addressing my actual requests or addresses them in any way. Everything the FBI has filed is based upon the FBI's initial and perpetuated misrepresentation of my actual requests. I have stated this over and over gain, under oath, without refutation or attempted refutation or even merely pro forma denials. To the best of my recollection, each of my attestations to this fact remains ignored by the FBI.

10. As I also stated without refutation, I became aware of the FBI's intent not to comply with my actual requests before the first calendar call in this litigation, before any record had been processed, on the day Judge Oberdorfer recused himself. That day my counsel and I conferred with the FBI's then counsel, who told us what the FBI planned in substitution for my requests and I informed him that this was not acceptable to me and would not comply with my actual requests. I have stated this repeatedly throughout this long litigation and the FBI has ignored it. It has not denied or made any effort to refute it.

11. This means that the FBI knew before it processed any records that I regarded what it planned as not complying with my actual requests. Under the FBI's regulations, which I have cited without dispute in this litigation, if it disagreed

with meeor could not understand my requests or had any problems with them, it was required to ask that I rephrase them and offer assistance in this. It never made any such claims and never did any of the things required by its regulations.

12. This was only the first of continuing FBI violations of its own regulations. These regulations required it to make an initial search and inform me of the approximate volume of records within my requests, the approximate cost of providing them, and the approximate cash deposit it would require. Although at the time of my requests no fee waiver had been granted and it was being opposed by the FBI, the FBI never informed me of the approximate volume of records, their cost or the size of the deposit it would require. The FBI also requires this information from the preliminary search for its own purposes, including determination of whether or not the request involves enough records for it to be classified as a "project" case, for projections of personnel needs and assignments and similar needs.

13. This was not an accidental oversight by the FBI because I requested this information of both the Dallas and New Orleans offices: "I would appreciate it if you could let me know the estimated volume of records involved in this request and when you expect to begin processing..." Not only was this information mine as a matter of right under the FBI's own regulations, it was essential in order to be able to pay the down payment the FBI would require of me.

14. Although I have attested to the informats!n in the immediately preceding paragraphs earlier in this litigation, to a large degree on more than one occasion, the FBI has not only dontradedicted me. It has ignored my attestations. It has never at any time made any belated attempt to comply with its own regulations; never alleged that my requests are not comprehensible; never claimed that it faced any problems in either understanding or complying with them; never asked for any explanation of them; and it never asked that I rephrase or change or modify them

or offered any assistance in any rephrasing of them.

15. As I earlier attested without dispute, in other of my FOIA litigation a number of FBI FOIA supervisors offered testimony on behalf of the FBI addressing what they testified are its undeviating practices in FOIA matters. It determines whether there are pertinent records, whether or not the volume of records classified it as a "project" case, what their approximate volume and cost to the requester will be, and all the other information required by the FOIPA branch for its own information and for it to provide to the requester. In this litigation the FBI did not do any of these things that are required of it.

16. The FBI knows very well that FOIA responses require at a minimum at least two searches at the outset, one to determine whether or not it has any pertinent information and its volume and then the search to locate and process any pertinent information. In these cases it never made either search. It did not determine and inform me of the approximate volume and cost of processing the requested information and the time this would require and it did not make the searches required for compliance with my requests. Instead, as in an unguarded moment of aberrational honesty Supervisor SA John N. Phillips attested, the Dallas field office forwarded my request to FBIHQ where, arbitrarily, capriciously and for ulterior and improper purposes I attested to earlier without dispute, SA Thomas Bresson decided that I would be limited to three, later amended to four, of the main files my request is specific in stating it is not limited to. Dallas, which claims to have provided all its search slips, did not even pretend to make any search until October 15, 1980, almost three years after it received my request and about two years after it first claimed complete compliance. To these main files to which my request of it specifically is not limited, the New Orleans office pretends to have made a few additional searches under the names of only a few of the persons

it knew are involved in the federal and New Orleans investigations of the assassination of President Kennedy and even then did not ^{to} ~~locate~~ all its records on those persons. Even now the FBI continues to withhold much of the identified information that is not in these main files. Among the many defects of the alleged New Orleans search to which I have attested without refutation ^{tion of} ~~denial~~ even pro forma denial is the fact that most of them are dated almost a year prior to my requests and thus cannot be searches made pursuant to my requests. Neither office made or pretends to have made any search for any information related to any of the organizations involved in these investigations, although that is specifically requested ^{of both} ~~of both~~ offices.

17. Even when I provided some of these names voluntarily - the FBI never requested any such information from me - the FBI steadfastly refused to make those searches. And as I have attested, when the appeals office directed that it process information pertaining to those known as "critics" of the official investigation, the FBI engaged in a deliberate false pretense, that the appeals office had directed it to make a search only under the topic "critics" when the appeals office and the FBI knew that it does not file that way and cannot retrieve topically. To date, even after I provided many FBI records reflecting the foregoing, the FBI refuses to make any part of the search it was directed to make pertaining to "critics" and when I offered to dismiss this litigation after it processed it information pertaining to some of the known "critics" that I identified, it persisted in this refusal.

18. Although the FBI claims to have searched under the topic "critics" in both field offices and it swears that the search slips it provided are complete and authentic, it has not provided any search slips or requests of any kind pertaining to the topic "critics" or to any person known as a "critic." Likewise,

although it claims to have made ELSUR searches at each office, as I attested in my May 28, 1983, affidavit, the FBI has not provided any search slip or search request of any kind relating to any ELSUR searches.

19. The plain and undenied truth is that the FBI knew very well that my litigated requests include "any information related in any way to the assassinations" of both Dr. Martin Luther King, Jr., and President Kennedy. I quote, with the emphasis ^{S/S} of the original, the August 14, 1978, memo from the Department's then appeals director to the FBI's then ^PFOIA chief, Inspector Allen McCreight (attached as Exhibit 1). The FBI knew and it agreed that any such records "being released to anyone will also be released to" me.

20. This particular copy of this memo is, in fact, from the FBI's FOIA file on me and clearly was known to its FOIA personnel involved in this litigation. That the FBI correctly understood the Department's intent is stated in other internal records disclosed to me. Moreover, the Department informed me of this in writing, including the fact that the FBI had agreed. Despite this agreement reported in Exhibit 1, the FBI did not abide by its agreement and the Department's directive in this litigation or when it provided JFK assassination information to others.

21. ^{Even} ~~When~~ when I made special requests for JFK assassination information, the FBI disclosed to others and withheld from me, the FBI failed and to this day continues to fail to provide me with or offer me this already disclosed and processed JFK assassination information. Among the examples of this are the ignored requests I made when the FBI did not abide by its and the Department's word after books conforming to the FBI's assassination views were published by Edward Jay Epstein and David Lifton. I made separate requests for the identical information and to this day the FBI has not complied. Another example is my request

for the information provided to the House Select Committee on Assassinations. After four or five years my request remains entirely ignored by the FBI. But another and later requester has filed suit and the FBI is providing him with information. It has not informed me of its disclosures to this other requester. It has not even asked me if I would like copies.

22. Although the FBI did not dispute that it had agreed to provide me with all information pertaining in any way to the investigation of those assassinations, it never intended to keep its word and it did not contradict any of the information I provided to the Department and it forwarded to the FBI's FOIPA head with Exhibit 1.

23. The truth is that a year earlier the Department promised the Senate's FOIA subcommittee that some 25 of my requests the FBI had ignored for up to almost a decade would be complied with. (Some of this information is within this litigation and has not been provided in it.) As of today, more than five years later, the FBI has not done so. In fact, Inspector McCreight, also a witness before that subcommittee and then present, refused to make this promise. He also did not contradict the testimony of the Department's witnesses, that the FBI's behavior with me in my FOIA requests was inexcusable. The Department promised, the FBI then stonewalled and thereafter extended its stonewalling to this litigation, despite the directives to it by the Department and its agreement with them.

24. Among those 25 old and ignored requests that also are pertinent in this litigation is the request I first made under date of January 1, 1969. I accompanied it with the deposit then required. It includes certain motion and still pictures. Not one of these has ever been provided to me voluntarily by the FBI and most still remain withheld. In two instances, after I complained to the FBI that it had disclosed these films to later requesters and still withheld them

from me, I obtained copies. The others remain withheld. Although I attested to this earlier in this litigation, the existing and correctly identified films of both kinds remain withheld from me as of today.

25. (It was common practice to cash my checks and send me nothing at all. Once my check was shredded, then patched together crudely with scotch tape and deposited. It cleared all banks and was charged to my account.)

26. With regard to these and other requests (all also ^{within} ~~within~~ this litigation) that I made of the FBI that year, I wrote the attorney general on January 1, 1970. These and all other ^{FBI} ~~FBI~~ films of both kinds are included in my January 1, 1970, renewal of my FOIA requests. I received no response at all. I then wrote the deputy attorney general on December 2, 1970, after the change in administrations, about these same requests. That resulted in an internal investigation some of the records of which were disclosed to me. They disclose the existence of FBI copies of these films. But even after FBIHQ learned again from this internal investigation that its field offices had copies of the requested films, they were not provided. (This internal investigation also established that some of these films also were withheld from the Warren Commission by the FBI.)

27. Under date of May 28, 1979, (and perhaps on other occasions), I filed a lengthy and detailed appeal pertaining to this information then withheld in this litigation. In addition to about 2,000 words of information and detail, I provided copies of the FBI's own records reflecting its possession of the requested still and motion pictures. I never received any response to this appeal.

28. This encapsulation underscores the spuriousness of the FBI's pretenses that it requires more information ^{from} ~~from~~ me for searches. It reflects the FBI's determination not to search and not to comply.

29. With the long and consistent FBI record of refusing to search and

refusing to comply after it was provided with proof that it had pertinent and withheld information - which it did not need in any event to make a proper search - and with the record of the attorney general, the deputy attorney general and the appeals director, of doing nothing at all when the FBI was obdurate, there is no reason to believe that, if the FBI had the discovery it demands in the form in which it demands it, it would do anything more than concoct another stonewalling cock-and-bull story. Moreover, I reiterate that I have provided all of the requested information and documentation of which I am aware and that the FBI ^{does} ~~does~~ not deny this.

30. That the FBI had copies of some of this film also is disclosed in the records it provided to the Warren Commission and it in turn disclosed. Among these still withheld pictures are six stills from one of the also requested and withheld motion picture films that the New Orleans office used and displayed in interrogating witnesses to some of Lee Harvey Oswald's activities in New Orleans.

31. Another New Orleans withholding that persists until now in this litigation overlaps an old FOIA request I made pertaining to one Ronnie Caire. The FBI's internal investigation after I complained to the Department disclosed the existence of Caire records the FBI had denied existed. However, that did not result in their disclosure then or since then in this litigation.

32. These January 1, 1969, film requests and other related requests pertain to one of the FBI's larger investigatory failures and shortcomings. This has to do with the existence of a publicly ^{unidentified} ~~identified~~ Oswald preassassination associate. In the FBI's solution, this means an associate of the assassin. The FBI has and continues to withhold information identifying this associate of the alleged assassin/it never identified. It made only a perfunctory New Orleans investigation. It obtained fingerprints from one of Oswald's leaflets. I also

made a separate, prepaid request for that information. This involves both FBIHQ and the New Orleans office at the least. That separate request also remains ignored. That information also remains withheld in this litigation. If it is not filed in any main assassination file, it is still within my litigated requests, and I first requested it almost fifteen years ago.

33. These are among the countless proofs that the FBI's present false representation, that I am supposedly enlarging and shifting my requests, is knowingly and deliberately false. I believe it is also a fraudulent misrepresentation to defraud me now, as I was defrauded in 1969 when my check was cashed and I received nothing for it. It also was asserted to threaten me with possible incarceration. My counsel reported to me that the FBI's counsel had made such noises to him recently about a possible contempt charge. While it may not be the major item in point, I believe that it is significant that these are ignored 1969 requests, repeated in 1970 to the attorney general and the deputy attorney general and on appeal in this litigation in 1978. I select these as illustrative because they are the oldest of the 25 documented ignored requests tabulated in another case in 1976, because the FBI and the Department continued thereafter to ignore them, because the same information is sought in this litigation and is withheld, and because these are the requests the Department promised the Senate in 1977 would be complied with promptly and have not been complied with. This information also is included in my ignored affidavits in this litigation. Given this record, all known to the FBI and the Department, I believe it is obvious that any allegation that I shift or enlarge my request is knowingly and deliberately false.

34. Moreover, it is obvious that when my request was interpreted by both the Department and the FBI as encompassing "any record related in any way to the

assassinations," the words and the emphasis of the appeals director in Exhibit 1, and it begins by referring to the FBI's agreement to this and to providing me with any JFK assassination information provided to any other requester, it simply is not possible for me to expand or enlarge my requests and the FBI and the Department know it.

35. The foregoing illustrations are only illustrations. There are countless such matters that characterize this case and to a large degree are set forth in my affidavits and are not contradicted. They are merely ignored. Taken together with the fact that my requests are admittedly all-inclusive, as is stated in Exhibit 1, the FBI's own FOIA record pertaining to my litigation, I believe that the FBI's false statements, misrepresentations and deceptions throughout this long-stonewalled case, particularly in its discovery stratagem and more recently in its demand for sanctions that include my repaying it for the money it squandered to defraud me, are not accidental. I am defrauded of my rights under the Act and if I pay it I am defrauded of the money it has wasted in defrauding me. If the case is dismissed based on its untruths, then I am defrauded even more. Contempt, of course, can be more serious.

36/ ^{In the light of these} ~~On the basis of these~~ activities rather than the FBI's fictions, one of the FBI's representations in seeking the sanction of dismissal is ridiculous and ludicrous. It is that its "discovery is merely designed to ascertain the facts and/or documents which a (sic) plaintiff claims exist and which allegedly demonstrate that the agency's search was not adequate." (Page 2) Until the FBI proves that it has searched for ^{requested} all its/information, its search cannot possibly be represented as "adequate." It has neither done this nor claimed that it has.

37. Moreover, as I attested in my affidavit of May 28, 1983, this is an entirely different representation than the one made to procure the ~~discovery~~ Order.

Then it was not alleged that I had not provided this discovery information, as uncontestedly I had. If then was alleged instead that, because the FBI had ignored that information and documentation when I provided it, I should now be required to draw it all together for the FBI, which is to say, do the work it should have done and failed to do.

38. Although the FBI knows it has not searched to comply with my requests and has not provided all the pertinent information it knows it has, as is reflected in Exhibit 1 of five years earlier, it now represents that my "failure to comply with a discovery order deprives a defendant (i.e., the FBI) of a full and fair opportunity to prepare its case and deprives the courts of information indispensable to a proper adjudication of the issue." (Page 4) This is obviously and knowingly untrue.

39. This is followed by the equally and knowingly false representation that my "refusal to answer its (the FBI's) discovery will deprive it of a meaningful opportunity to demonstrate that plaintiff's assertions about the adequacy of the FBI's search are baseless." (Pages 4-5) While without it the FBI knew my requests are all-inclusive and it made no searches to comply with my requests at all in Dallas and made knowingly inadequate searches in New Orleans, neither disputed when I attested to both repeatedly throughout this litigation, it is beyond question that it knows such allegations are false.

40. If none of this were true, as all of it is, until the FBI attests that it has searched to comply with my actual requests and has done as directed and agreed to (in Exhibit 1), any such representations are on this basis alone at least premature. The FBI has not provided such attestations in this litigation and it does not try now.

41. Because the FBI knew that its attestations in this litigation do not

*Word omitted -
conform?*

with fact and truth, to the degree possible it provided incompetent attestations by one who, if faced with the charge of perjury, might defend himself by claiming that he did not know anything at all about what he swore to. While I believe that FBIHQ SA John Phillips did cross the line and did swear falsely to what he did know was not true, much of his swearing is to what, undeniably, he did not know of personal knowledge. Moreover, when I attested to this, neither he nor anyone else speaking for the FBI, under oath or otherwise, disputed me in any way. Yet in all instances, the FBI has available to it those who do have personal knowledge. It is my understanding, coming from the Londrigan and other decisions, that personal knowledge is a requirement. It is undenied that those who have personal knowledge are available to the FBI for such attestations.

42. One example of this that I select because of the frequency of my repetition of it under oath and because of the FBI's careful restriction of its responses to Phillips, who neither had nor claimed any personal knowledge, is the matter of the FBI's copies of the tapes of the Dallas police radiobroadcasts of the time of the assassination. Only Phillips, who has no knowledge, provided attestations, and he swore only falsely. He shifted his falsehoods in an effort to deny new evidence as I produced it. In plain English, he lied his head off, even though his official responsibilities, if not legal training, let him know that to provide any competent attestation he required personal knowledge. His official position also held him who could or did have such personal knowledge in Dallas. None of this deterred Phillips or FBI counsel, who were also informed by my undenied, unrefuted and unrefutable and documented affidavits. They also prove that the FBI undertook, from the outset, to hide its copies of these Dallas police radio tapes. This also is undenied. It cannot be denied because I provided the FBI's own proof of it. The FBI provided it to me in this litigation.

43. In this matter also it is obvious that neither discovery nor documentation is required of me for any purpose. Here also I provided voluntarily what the FBI both ignores and demands again under discovery.

44. I select the matter of the police radio broadcast tapes of the many available illustrations because, in addition to my having provided all the information I have about them, it is a matter about which the FBI had earlier lied to the Department and to the panel of experts it convoked to study those tapes. The FBI's lie is that it did not have these tapes when it did and it knew it did and its own records contemporaneous with the lie and disclosed to me in this litigation establish that it did. (Its earlier contemporaneous records, as without denial I attested, are deliberately misfiled outside the main assassination files and still have not been searched for.) The attorney general had promised the Congress that he would have such a study made. As without dispute I also attested earlier, based on records with which the FBI did not trouble me, the Department simply gloated when it was possible to arrange for this official study to be made by private sector persons who are outside FOIA. They never had the FBI's still withheld copies of those tapes for their "study" and were reduced to using what the FBI's own records describe as crumbling and damaged versions of the poorest quality.

45) This is far from the FBI's only withholding from the Congress and its duly authorized investigating committee. As I have also attested without ^{refutation} ~~refutation~~ or even unsworn pro forma denial, in this litigation the FBI undertook to limit me to the field office companion files of FBIHQ's main files to which it intended to limit this Congressional committee. Those FBIHQ main files just happen to be those the FBI had already disclosed. Once I was able to compel the FBI, in this litigation, to disclose the field office companion files of these ^{FBIHQ main} ~~main~~ files, the FBI schemed to withhold from that committee what it was disclosing to me.

In its internal scheming, as I have already attested and illustrated with the FBI's own record withheld from me but provided to another, if the FBI could not get away with total withholding from it, it planned to offer the Congressional committee a "compromise" - copies of some of the records disclosed to me in this litigation, as long as the committee did not want too many of them!

46. This matter also reflects the FBI's intent not to provide me with pertinent information within my requests and its intent not to keep its word as recorded in Exhibit 1, to provide me with copies of any and all JFK assassination records disclosed to anyone else. A later requester duplicated one of my requests. When he received no compliance, he entered suit. The FBI is compelled to make disclosure to him. However, it has not provided me with what it discloses to him, has not offered it to me or even asked if I want it. Yet five years ago it agreed with the Department that it would provide all such information to me.

47. There are many FBI records bearing on the deliberateness of its non-compliance and refusals to search, some in the ~~case~~^{case} record and unrefuted. Others I cannot now search for and retrieve are in the case records of other of my lawsuits against the FBI, are well known to it and its counsel, and they also are unrefuted. In this litigation Phillips, who has a record of swearing to anything at all, had not addressed these allegations. I believe that this is because the FBI's record and its own records are clear and unequivocal on this and because of the possibility that I might produce additional FBI records refuting any such representations. Recently, in reviewing the far from complete records the FBI provided in response to my request for all its records on me, I did locate a few more FBI records supporting these and other allegations I have made in this litigation.

48. There are many FBI records bearing on the deliberateness of its non-compliance and refusals to search, some in the case record and unrefuted. Others

48. One of the records that is in the case record and is ignored by the FBI is the memorandum of the then Department director of appeals, Quinlan Shea, stating that the FBI was withholding many pertinent records from me because it had them filed in files that it simply refused to search or comply from. He held that filing is not relevant to pertinence. This is exactly the point in and purpose of the FBI's refusal to search in compliance with my requests and its arbitrary, capricious and entirely improper FBIHQ decision to limit me to a few main files even though my request is explicit in stating that it is not limited to them.

49. Mr. Shea discussed this with me. He stated that, whether or not it had made a proper search, New Orleans appeared to have at least made a gesture toward complying with regulations but that Dallas had not even made any such gesture and had not complied. This was not rectified by Dallas, which never made any search until October 15, 1980, in response to a few directives from Mr. Shea. The inadequacies of the New Orleans searches and their phoniness is documented in my prior affidavits and, despite the declarations subsequently filed by Phillips and New Orleans FOIA SA Clifford Anderson, remain undenied. (It can hardly be denied that searches dated a year before my requests were not made in response to my requests.) Mr. Shea was so dissatisfied he told me he planned to send an assistant to both offices to supervise searches. He then lost that assistant, who accepted other employment.

50. An oft-repeated example of this tricky filing and refusal to search is the FBI's tapes of the broadcasts of the Dallas police for the period of the assassination. Without question, despite Phillips' repeated false swearings to what he knew nothing about, the Dallas FBI obtained them. This is stated in the FBI's own records pertaining to the study and analysis the attorney general agreed in 1979 to have made of these tapes for the five minutes of time of the assassination

that an open microphone made the voices broadcast incomprehensible to the human ear.

51. The request was by the House Select Committee on Assassinations whose eminent experts had concluded that their analysis of the versions of tapes it had established the firing of a fourth shot which, the committee concluded, meant that there had been a conspiracy to assassinate the President. The FBI's solution holds that only three shots were fired.

52. Although the Dallas FBI did make and have these tapes and did transcribe them for the Warren Commission, this is not reflected in the special Dallas index. It, however, is limited to the few main files that, without dispute, do not hold all information pertaining to the assassination and its investigation. As of today no search for these tapes has been made in Dallas and no attestation to any such search has been provided by Dallas. This is precisely the sort of thing the director of appeals referred to. Those tapes are indubitably and undeniably within my requests, do exist, are withheld and, despite such motions as this to dismiss, have not yet been searched for after more than five years.

53. It is obvious that the FBI needs no help from me in making a belated search for these tapes and it is undenied that I have provided it with all the information I have. It also is undenied that there is nothing more I can provide under discovery. This also included documentation. I have provided the FBI with its own records reflecting when, where and how it made copies of these recorded broadcasts, with its records establishing that it had transcribed them for the Warren Commission, and with all the information I have that does not come from its records. I even provided it with the pertinent content of its own special index, which establishes the tricky filing outside the appropriate main files.

54. This gets to motive for such refusals to search and such withholdings,

motive in addition to the FBI's stated purpose of "stopping" me and my writing (about which more appears below). If the FBI now provides me with copies of these tapes and still withholds pertinent records, it thereby admits not only that it swore falsely in this litigation instead of searching - it admits that it lied to the Department in not providing these tapes for the use of the attorney general's special panel referred to above. It also is possible that those withheld records contemporaneous with that very untoward event, the obliterating of what the police broadcast~~at~~ at the very moment of the assassination, disclose that instead of appearing to have ignored this exceptional development, the FBI was aware of it and still was silent. It is possible that the FBI's contemporaneous tapes are superior to the recordings of the police, which were not stored properly and have been scientifically rated as of poor quality for such a study.

55. There are numerous such matters that now can be very embarrassing to the FBI, numerous investigative failings when it supposedly investigated "the crime of the century." I have referred to some of its failings and faults in this litigation. My accurate reporting of some of them in my writing was so embarrassing to the FBI that it concocted its scheme of "stopping" me and my writing by filing a spurious libel suit against me. I have found some of these records in the personal records that were disclosed to me. All exist in the FBIHQ main files. I also provided copies of them in other litigation and in appeals. (See Paragraphs 65 ff.)

56. These records disclose that the FBI filed my information requests as "subversive" in its file on me as an alleged subversive, 100-351938. The FBI's 100 classification means "Subversive Matter (Individual); Internal Security (Organizations); Domestic Security Investigations." To it, as I have alleged without denial throughout this litigation, my requests for information related to

these most serious and truly subversive of modern crimes and its investigation of them is subversion.

57. These records also reflect the inconsistency of FBI filing and how, through tricky filing and indexing, it can attest to a search that does not disclose records it knows exist. This, too, is something I have stated without refutation throughout this litigation.

58. Some of my supposedly "subversive" records are "Not Recorded." This is to say they are not the record copies that are indexed. Others are the "Recorded" or record and indexed copies. Thus a search limited to what is indexed to the FOIPA files (190) will not report the existence of my information-request records filed and recorded as "subversive" (100). (It is my recollection that other FBI records pertaining to my information requests are also filed under classifications other than 100 and 190.)

59. Those processing FBI records can and do expose the deliberate inadequacy of its searches. For example, when FBI reporting of my allegedly subversive life could include seemingly derogatory information, they disclosed what appeared to damage my reputation, the FBI's purpose in its distributed rehashes. Where the identifications of the underlying files were not withheld, these FBI rehashes disclose that existing known and identified records were not searched and were not provided. There were a number of instances of this, I appealed, and after more than five years my appeals remain ignored and the FBI itself has not responded in any way.

60. In this litigation, as I have attested without contradiction, the identification/^{of} withheld pertinent records on "persons and organizations" who are "critics" of the FBI's investigation was disclosed. I appealed, sometimes including the disclosed Dallas and New Orleans file numbers, and the FBI still has not

searched for and has not provided these identified and pertinent records. In that appeal I was successful, but the FBI deliberately contorted and misrepresented Mr. Shea's directive into what he and the FBI knew to be an absolutely impossible topical search. The FBI does not file that way and cannot retrieve that way. I attested to this repeatedly, attaching FBI records stating that it does not file and cannot retrieve topically, and the FBI has not denied it. Yet it still has not made the required searches. Instead, it demands that I provide it with the information it knows it does not require for belated searches without attesting to any such need, and thus stonewalls this litigation, attempts to rewrite and largely nullify FOIA, and tries to shift its legislated burden of proof onto me.

61. As an FOIA requester/plaintiff of some experience, I attest, based on this experience, particularly with the FBI, that requiring discovery of any requester, even a wealthy requester who can afford to pay counsel for the ~~considerable~~ time and costs this would require, for practical purposes largely negates FOIA. I cannot pay my counsel and if required to do as the FBI demands, it might take the rest of my life, something the FBI has not denied or contradicted in any way.

62. Another example of this tricky FBI filing that has resulted in the withholding of JFK assassination records from me even after they are processed for and disclosed to another (and thus should have been provided to me on that additional basis, as is stated explicitly in Exhibit 1) is filing these assassination records only under the file classification of a Congressional committee. I have provided illustrations of this in attachments to earlier affidavits.

63. This further illustrates how not making field office searches and instead limiting me to a few main files can withhold pertinent information that is not filed in these main files. I have provided illustrations of this, without any

contradiction even being attempted.

64. The field offices do not have duplicate files as "Not Recorded" copies. This means that information withheld by such filing would not be disclosed by accident through the disclosure of duplicates filed elsewhere and/or properly.

65. When I attested to these matters and practices in my earlier affidavits, including how the FBI schemed to "stop" me, Phillips, who could have made a search and disputed me, made no response at all. Instead, FBI counsel made sneering comments without any basis for them being either cited or existing.

66. The first of these FBI schemes to "stop" me and my writing was cooked up by Lyndall L. Shaneyfelt. He was an FBI Laboratory photographic expert who was in a liaison role with the Warren Commission. The FBI provided that Commission's photographic services, including duplicating film and photographing its reenactment of the crime. LIFE magazine had the rights to the best amateur motion picture of the assassination, made by the late Abraham Zapruder. It provided the Commission with color slides made from individual frames of this movie. Shaneyfelt did the Lab work on these slides and made black-and-white copies for publication. As he testified, he numbered the slides to correspond with the numbered frames. They are known to this day by Shaneyfelt's numbers.

67. In the official solution of the crime, it was not possible for Oswald to have shot the President until Frame 210, when he was in the course of being hidden from Zapruder's camera by a road sign between it and the limousine.

68. In the original film - and this is a matter about which Shaneyfelt was totally silent - this and the frames around it are missing. Shaneyfelt, pretending none of this had happened, numbered the slides as though they include the frames that they do not include. In fact, where one slide clearly depicts the splice made when the top of the first missing frame was cemented to the bottom of

the last, this FBI expert gave that hodgepodge the number of the bottom half.

69. The original motion picture only has an image that is not shown on projection. It is captured on the film between the sprocket holes by which the film is moved. This amounts to about 20 percent of the total area and information of the exposed film. Shaneyfelt never testified to this or to the information between the sprocket holes. If he had given honest testimony about this sprocket-hole information, he would have testified in contradiction to the official solution, which was decided upon by the then FBI director the very day of the crime and prior to investigation. (My attestations to the latter fact remain undisputed.)

70. In filming the reenactment of the crime, Shaneyfelt did not use the Zapruder camera and did not photograph the reenactment from where Zapruder did. He thus, by his own admission to the Commission, wound up a full third wrong in the quintessential timing. His expert's fairy-tale explanation to the Commission is that it could ignore this error because he made a yellow mark on the enactment film at the correct point.

71. These are far from all of Shaneyfelt's and the FBI Lab's failings in investigating and in reporting its investigation of the JFK assassination. It was embarrassing to Shaneyfelt, his Lab and his FBI when I exposed these and other shortcomings ^{in late} ~~in late~~ 1966 and early 1967. This is what led to his scheme to "stop" me. Shaneyfelt wrote a memo about it on January 26, 1967, to go upward through the chain of command. In it he alleged I was inaccurate and libeled him and the FBI. No FBI component investigated his or my accuracy. Instead, it was merely assumed that I libeled him, and on this assumption the FBI's Legal Research Desk, without making any effort to determine fact, decided that the FBI could use Shaneyfelt as a front to sue me. The decision moved up to Director Hoover.

72. What Shaneyfelt bucked to Hoover about my first two books is that they

"appear to be libelous of both the Bureau and SA Shaneyfelt. Accordingly, in an effort to discourage and stop such highly irresponsible and unwarranted attacks against the Bureau on the part of Weisberg and others like him, the Bureau may wish to explore the feasibility of having a libel action brought against him in SA Shaneyfelt's name." (Emphasis added. Exhibit 2)

73. This recommends explicitly that the FBI "stop" me and my writing and that it do this by using Shaneyfelt as a front, suing me in his name. This is not the only such FBI reference to "stopping" me and my writing and it is not the only one to originate in the Lab.

to 74. So there would be no doubt about Shaneyfelt's and the Lab's intentions, he have the FBI use him as a front for suing and "stopping" me, he also stated, "SA Shaneyfelt, of course, contemplates no action in the matter unless desired by the Bureau."

75. Shaneyfelt's stating that "of course" he would not personally sue me was not without other purpose in the FBI of that time when, it was been widely reported, its bureaucrats were manipulating the aging Director J. Edgar Hoover. Moreover, former FBI Assistant Director William C. Sullivan states in his book, The Bureau: My Thirty Years in Hoover's FBI, that it was well known throughout the FBI that Hoover had a horror of FBI involvement in civil litigation. So, Shaneyfelt and the Lab, without confronting my accurate exposures of their failings, used this means of defending themselves to the top FBI brass, including Hoover, and at the same time presented themselves, not only as super-loyal and self-sacrificing, but also as willing to be used as a front by the FBI while having no intention of suing me for any other purpose or in any other way.

76. As I attested earlier, the word "stop" is the word the FBI used, and that I and my writing are to be "stopped" is clear. Later, another Laboratory agent, Marion Williams, was even more explicit in stating that both I and my writing

were to be "stopped" in the interest of the FBI. (This record was not included among those disclosed as pertaining to me. It is, however, in disclosed FBIHQ main files and copies are attached to affidavits filed in other of my FOIA lawsuits against the FBI. It has never made any effort to deny my allegations.)

77. Aside from any other copying and routing by some of the recipients, Shaneyfelt's proposal was routed to all the top FBI brass who are listed on its first page and who initialed it. They also received the results of the so-called legal research (Exhibit 3) that was performed at taxpayer expense. This so-called legal research did not include determining whether or not my writing was accurate. It merely assumed that it was not accurate, without which I could not be sued. It also concluded that my writing was libelous and that such a suit could be filed. The FBI's "legal research" does not state the FBI cannot or should not use an employee to front for it in a suit to "stop" a writer and his writing.

78. If in any of this anyone at all in the FBI, including among its top brass and its "legal research" component, had any question at all about the legality, morality, propriety, decency or ethics of this scheme, it is not indicated anywhere or in any way in any record disclosed to me or anywhere else of which I have knowledge.

79. Hoover and others agreed that the decision - on whether the FBI would use Shaneyfelt as a front in suing me to "stop" me and my writing - be left to Shaneyfelt. He, having accomplished his purposes and having presented himself as the most loyal and self-sacrificing of FBI employees, then decided against it. His alleged reasons are those of which he and the FBI were aware from the outset. (Exhibit 3).

80. There is another reason not stated. There is no way that Shaneyfelt or the Laboratory or the FBI is going to permit testing of the accuracy of my

writing about it and its investigation in open court.

81. When I learned about this scheme I called Shaneyfelt's bluff - twice. My first knowledge came when he intruded it into a deposition in a prejudicial and entirely irrelevant manner. At the end of his testimony, I told the FBI's in-house lawyer and its official counsel that if they so desired I would provide a written waiver of the statute of limitations. Later, when Shaneyfelt, who had told his FBI superiors he had "no desire to obtain a financial advantage" (in Exhibit 4), demanded \$35 an hour in addition to the prescribed and prepaid witness fees and expenses, I repeated some of what I had published earlier. I gave him a direct challenge that he file suit and a written waiver of the statute of limitations. I received no response. (Exhibit 5)

0/ 82. Those earlier schemed purposes are and have been accomplished by the FBI in my FOIA litigation, which it can and has stalled successfully, thereby taking up much of the time that remains to me. One of the means by which it stalls is by ignoring my FOIA requests and thus forcing unnecessary litigation. Another is not to search after I file suit, and this has, consistently, been followed by representations to the courts, sworn and unsworn, that are evasive, that misrepresent and seek to deceive and that are just plain false.

83. In this litigation my ^{attribution} allegations of these practices and purposes to the FBI are almost entirely ignored. It therefore is, for the most part, not denied that the FBI has deceived, misrepresented, evaded and been untruthful, including under oath. My allegations are specific and, if not factual, are subject to refutation by the FBI, which has not done so.

84. Among my sworn allegations that the FBI has not refuted are that I have already provided all the information and documentation sought under discovery, that the FBI has not testified to any need for discovery, that it has no such need,

that it has not searched to comply with my requests, and that this unnecessary discovery has ulterior and improper purposes and is excessively burdensome if not impossible for me because of the nature of the FBI's demands, my age and my impaired health and resultant physical limitations.

2/ 85. There is, and the FBI knows there is, much pertinent information in its files that it has not searched for and that is not in the few disclosed main files. Like the tapes of the Dallas police broadcasts, concluded by the House committee to hold proof that the FBI's solution to the "crime of the century" is not correct, there is other and potentially embarrassing information in the field offices that has not been searched for and has not been provided in the main files. Another illustration of this that also involves Shaneyfelt and is one of the many reasons he will not sue me is his investigation of the curbstome struck by a missed shot during the assassination.

3/ 86. He had it dug up and taken to the Lab in Washington for testing. He did not report that this evidence had been altered, although it is obvious and is reported in a Dallas record I obtained in this litigation. The FBI Lab proceeded to test what obviously was not the impact of a bullet and palmed off this phony test as genuine on the Warren Commission and the sorrowing nation.

87. It happens that a bystander was wounded slightly as a result of this missed shot. The FBI knew this immediately and later was reminded of it when it transcribed the police broadcasts, which report it several times. When that bystander, James T. Tague, then a young man from Indiana, planned to visit his folks, he returned to Dealey Plaza to take a movie of this spot in which he became part of the nation's history. That was in May 1964. He then discovered that the scar that was visible at the time of the shooting, that was photographed the next day and was published in the Dallas papers, no longer existed. When this curbstome impact that

the FBI ignored was reported to the Dallas United States Attorney in June, an investigation was compelled and Tague was deposed by the Warren Commission staff counsel. (Shaneyfelt's later removal of the curbstone for testing is part of the forced investigation.) During this deposition, Tague was shown photographs and was asked if they were frames from his motion picture of the curbstone and that area. He was astounded. He had not told anyone, he testified, that he had such pictures and he had no idea how the Commission could know. He was not told.

88. The FBI did the investigating for the Commission. There is no disclosed record of which I know, other than in the transcript of this deposition, that makes any reference to Tague's taking or having this movie. The Dallas FBI did that investigating for the Commission. It has not provided any such record in this litigation. And, mysteriously and inexplicably, although Tague had not provided it to the FBI or the Commission, his movie disappeared from his home.

89. The areas of embarrassment for the FBI in this matter provide motive for not making any search in Dallas pertaining to this part of the investigation. The FBI, which knew that acknowledging this missed shot meant confirming that there had been a conspiracy to assassinate the President, simply consigned it to the memory hole until it had no alternative. It then conducted a phony test of the patched curbstone and presented that as authentic testing of the original missile impact, which is under the patch and has never been tested.

90. Before he appointed the Commission, President Johnson directed that the FBI make a special investigation for him. (As Director Hoover testified to the Commission and as is recorded in a number of internal FBI records disclosed to me, the FBI had no law enforcement jurisdiction and its investigation was not for law enforcement purposes. That there be a law enforcement purpose is required for claim to FOIA Exemption 7.) The FBI's report, touted as definitive and the be-all

and end-all, is contained in five bound volumes, excerpts from which I used in facsimile in my first book. The excerpts I used are the two incredibly brief and entirely inadequate references to the actual crime. The FBI did not even mention all the known shooting or all the President's known and reported wounds in its definitive investigation. In this supposedly and toutedly definitive FBI resolution to the assassination, there is but a single 10-word sentence referring to the crime itself and three short sentences referring to the wounds and one of the bullets allegedly fired in the crime. Instead of investigating the crime and reporting the evidence, the FBI created a multivolume diatribe against Oswald, who was presumed by Hoover to be the lone assassin. I attach the table of contents of the text volume to reflect its content. (Exhibit 6)

91. As the table of contents reflects, there is no reference to any missed shot or to the wounding of Tague, both known and reported immediately and publicly. To reflect that there is no mention of this known missed or even any other shot, I attach as Exhibit 7 the pages of the index that would include shots and Tague's name if either had been mentioned. Neither the missed shot nor the wounding of bystander Tague is mentioned in the FBI's "solution" to this terrible crime.

92. If the Tague records required to have existed in Dallas were to be disclosed to me in this litigation, it could be the cause of great embarrassment to the FBI. If they had been disclosed before the end of my C.A. 75-226 in which the FBI was the defendant, it could have been even more seriously embarrassing to the FBI.

93. To make this and motive clear, I state two uncontroverted and incontrovertible facts basic in this assassination and its investigation: 1) nobody, not the best shots available to the Commission, not the best shots in the FBI and no private sharpshooters, has ever been able to duplicate the shooting

attributed to Oswald and that rifle, which required that, in all official versions, three shots be fired with accuracy in about 5 seconds; and 2) that the FBI accounted for all three shots without regard to and only by completely ignoring this missed or Tague-wounding shot.

94. All of the foregoing pertaining to the missed shot and Tague are stated in great detail in C.A. 75-226 with complete documentation that includes FBI and Commission records and photographs, the deposition transcript and an affidavit provided by Tague. The FBI merely ignored all of this. However, it has all the information I have and all the pertinent documentation as a result of that litigation, so it knows that there is no other information or documentation I possess, if as it has not done it testified to any need for such information in this litigation.

95. There are a large number of such matters that can be embarrassing to the FBI and that can account for its refusals to make searches responsive to my actual requests. This also can account for its arbitrary, capricious and wrongful effort to limit me to the few main files in which the FBI was careful not to include such information.

96. The above-referred-to Shaneyfelt allegations that my work is not accurate and all other such FBI allegations and defamations of which I am aware, which means all it has disclosed to me, are not correct and sometimes are just made up - fabricated. My alleged inaccuracy and alleged background are two of the reasons stated in FBI records - and I mean this literally - for the supposedly legal determination that it did not have to respond to my FOIA requests in its interpretation of FOIA. The decision not to respond to my requests was approved by Hoover. One of these creations was required by the dominating FBI fiction that it and its director are always right, not matter how wrong they are. How the FBI "proves"

~~that it and its director are~~

that it and Director Hoover were correct when, without possibility of doubt, they were entirely and irrefutably wrong and how, when I am beyond any question completely accurate, it creates records that state that I was completely wrong is illustrated in Exhibit 8, another record from the FBI's main file on my alleged subversion, where it is the record and indexed copy of this concoction, Serial 9.

(Exhibit 8)

97. One of the perplexing and unaddressed questions about the assassination ~~investigation~~ ^{investigation} is why the alleged assassin did not fire a shot the only time he had a clear and unobstructed view from his so-called sniper's nest in that sixth-floor window. That one time was when the motorcade was going toward him, north on Houston Street, which is the eastern border of Dealey Plaza. Hoover testified to the Commission that "some people have raised the question: Why didn't he shoot the President as the car came toward the storehouse where he was working?" Hoover's explanation is that trees then obstructed Oswald's view. In my first book I quoted this testimony and published a Secret Service photograph taken from the so-called Oswald sniper's nest to show that there is not a single tree on Houston Street. (Exhibit 8) The fact is that when the motorcade was on Houston Street is the only time there were no trees between that window and it.

98. The FBI's "proof" that I was wrong when I was right and that Hoover was right when he was wrong, that I was "completely off base," consisted of telling Hoover that because after the motorcade left Houston Street, after it "turned left off of Houston Street," there were trees. (Emphasis added)

99. This record also reflects the fact that the FBI monitored my public appearances. I have alleged, without refutation from the FBI, that as part of its plan to "stop" me it also interfered in my life and ~~tried~~ ^{tried} to damage me and my books. The FBI and its affiant FOIA Supervisor Phillips do not have to make any searches

to determine the truth. They also do not need to know what is in the records the FBI still withholds. ^{Enough} ~~Enough~~ to show this is in what the FBI disclosed to me. This also bears on FBI motive for refusing to search for and process its information pertaining to "critics." It engaged in improprieties against us.

100. Another FBI record I cannot now locate but gave the FBI in other litigation states that WNEW-TV, in New York City, which had invited me to be a guest on a talk show, had asked the New York FBI to provide opposition and to refute my first book and whatever I might say. The New York FBI declined to do this but offered instead to provide information that others might use for that purpose. As another FBI report about this (Exhibit 10) states, the FBI "furnished all public source data and material which refuted criticism placed on the FBI or the Warren Commission investigation of the assassination."

101. As the FBI itself states in Exhibit 10, I was not unfair to it. As no FBI record provided to me even indicates, by this effort to ruin me and my book, which failed miserably because I knew the facts and was prepared to refute its propaganda, the FBI actually made an overnight success and best seller of it. Even though the FBI's "data and material which refuted ^{criticism} ~~criticism~~" was in the hands of four erudite lawyers planted in the audience.

102. The copy I use as Exhibit 10 is the non-record copy from the FBI's file on my supposed "subversion." The withholdings are not justified. The name, quite obviously, was of a public figure who was known to me; and when the FBI disclosed the record copy, in this instance filed correctly in its main assassination file, the name of the producer who invited me to be on that show, Paul Noble, is not withheld.

103. While not all FBI intrusions into my life and work were as helpful to me, and there is no reason to believe that helpfulness to me was within any

official purpose, this one was quite helpful. When that show was aired, I could not get copies of my first book to retailers and wholesalers servicing the area covered by the TV station fast ^{Enough} ~~enough~~ to meet the immediate demand, and, thanks to the FBI, a reprint was required immediately. (Some stores sold as many as 300 copies a day.)

104. An FBI symbol informer tried to ruin me and my second book on the opposite coast, when I appeared on a talk show on KCBS, San Francisco. He tried to do this by red-baiting me in the orthodox FBI manner. It sold every available copy of my books in the area before sundown. It also provided a standing-room-only audience when I spoke in Golden Gate Park the next night. How and why this FBI informer who sought to ruin me could or would know about alleged events in my life on the opposite coast and when he was an infant is not apparent, but his "information" also is in disclosed FBI files. (All I had to do to face my faceless and unidentified FBI accuser down was not to dodge and refute his allegations after keeping the station from cutting him off because of the viciousness of what he said.) That this was done to me by a symbol FBI informer was disclosed to me by the San Francisco FBI, I believe because those processing its records a decade and a half later knew nothing at all about what had transpired, the actual event and its helpfulness to me.

105. This was disclosed to me along with the filled-in printed FBI form for contacts with informers, the form I have stated without refutation the Dallas FBI was required to fill in for each and every contact it had with Jack Ruby. The FBI admits that Ruby was its PCI information ^{file} Dallas but it has not provided that file (a 137 file) or these filled-in informer contact forms for each contact with him.

106. Exhibit 10 also reflects the inconsistencies in FBI filing to which

I have attested. In New York the record is classified "66. Administrative Matters" called "admats." At FBIHQ it is classified "62. Miscellaneous - including Administrative Inquiry." and is in the main assassination file. A search in New York directed to assassination or Commission records thus could avoid including this "admats" record which is in one of the FBI's catchall classifications.

107. This record also reflects the accuracy of my statement that the FBI's information on and about "critics" was routed to its "Crime Records" division, which actually handled the FBI's propaganda and lobbying. It is obvious that the subject matter of this record is not related to "crime records" or to crime or to records pertaining to any criminal activities.

108. Cartha DeLoach, to whom the Shaneyfelt scheme to "stop" me also was routed, then headed "~~Crime~~ ^{Crime} Records" and the FBI's propaganda and lobbying activities. It is his office that leaked the substance of the FBI's five-volume report five days before it reached the Warren Commission, after which the FBI pretended to mount ~~diligent~~ ^{diligent} and vigilant search for the allegedly unknown leaker.

109. Another of my allegations and attributions of motive that was not responded to with any evidence but was the subject of FBI's counsel's sneers is my allegation that the FBI told the President, the attorneys general and other Department lawyers, and many others, what was not true about me but what was very hurtful at the time and, as new lawyers have access to it, I believe has been since. This is that I (and in another version also my wife) celebrate the Russian revolution annually. This is a complete fabrication and the FBI knew it was not true from other records it disclosed to me. This is part of the defamation the FBI sent to the White House when President Johnson was interested in criticism of the official solution to the assassination. The covering letter of November 8,

1966, was to Honorable Marvin Watson, Special Assistant to the President. The alleged summary of the FBI's information on me was attached, and this summary includes:

"In 1956 it was alleged that Weisberg held an annual celebration of the Russian Revolution. This celebration involved a picnic at his residence and was attended by 25 to 30 unknown people."

110. The event, which did not coincide with the Russian Revolution in time and had no connection of any kind with it, was a religious gathering at the farm I then owned. It was arranged for by the Washington rabbi of the Jewish Welfare Board. It was ^{after} ~~later~~ the fall Jewish high holidays. It was for Washington area service personnel and their families, particularly their children. All our farm stock was tame, We had eggs hatching weekly, always had baby chicks and baby waterfowl for the kids, they gathered eggs, played with and rode on animals, and did other things children do not often have an opportunity to do and enjoy. What I then did was so popular and so attractive that the University of Maryland, which was aware of it, adopted it under the name "Old McDonald's Farm."

111. This totally fabricated defamation of me and alleged linking of me and thus criticism of the official solution to the assassination with Russia was enough to end that White House interest which, if responded to honestly by the FBI, could have caused it considerable embarrassment.

112. DeLoach handled the matter and the delivery to the White House.

113. It is not only "critics" like me that the FBI harpooned to the White House and thereby directed interest away from itself. It also made such secret attacks on the CIA, particularly when Jim Garrison was making similar accusations in New Orleans. Another DeLoach memo, this one intended for Hoover, dated 4/4/67 and in the FBIHQ main assassination file, states that the White House was giving some credence to what Garrison was alleging. DeLoach states (pages 3 and 4):

in this connection, Marvin Watson called me late last night and stated that the President had told him in an off moment he was now convinced that there was a plot in connection with the assassination. Watson stated the President felt that the CIA had something to do with this plot. Watson requested any further information we could furnish in this connection ... would be most appreciated by him and the President. I reminded Watson that the Director had sent over to the White House some weeks back all the information in our possession in connection with the CIA's attempts to use

the mafia to assassinate Castro. (This is what was sometimes alleged to have triggered a kickback assassination of President Kennedy.) What the FBI did to make it appear that the CIA was involved in the assassination was ~~delibered~~ by DeLoach to Mildred Steagall at the White House and it did make it appear that the CIA was responsible for the assassination of President Kennedy.

114. Some of these FBI records pertaining to me confirm my allegations that the FBI refuses to make proper searches to comply with those of my requests it does not entirely ignore and that it forces and then stonewalls litigation, leaving no alternative other than abandoning information requests. These FBI records also reflect an attitude toward the FOIA that is contrary to its intent and purposes with which I am familiar going back to that provision of the Administrative Practices Act prior to the 1966 enactment. Some of these FBI records reminded me of copies of Department records of which I did make separate copies ~~for~~ and did use in other litigation. The FBI has those copies. They show that even when the attorney general and the Department's Office of Legal Counsel (OLC) wanted compliance with a request, the FBI resisted and refused, thus causing litigation that lasted for more than a decade. That case went to the appeals court five times before it stated that it was satisfied that the FBI had finally made an adequate search. And, as the Department forecast, the litigation had consequences the Department feared and did not desire. It led to the 1974 amending of the investigatory files exemption. I believe that the FBI was aware of this and regarded it

as potentially less adverse to FBI interest than disclosure of the requested information could have been.

115. My first request of the FBI for disclosure of the results of its nonsecret spectrographic examinations in the JFK assassination investigation was made in my letter of May 23, 1966. The FBI bureaucracy decided and Director Hoover agreed that it was not required to respond because it did not like me. I received no response.

116. About a year later, in an appearance on "Face the Nation," Attorney General Clark, apparently misinformed, spoke inaccurately about the availability of all nonexempt information related to the JFK assassination investigation. I wrote him explaining that he was misinformed and I illustrated this with the example of the still withheld information pertaining to the spectrographic examinations. The Archives informed the Department that the FBI had not provided the results to the Commission, that they were not in the Commission's files, and that I was not the only requester of that withheld information. The Department, particularly OLC and the Attorney General's office, desired that this information be disclosed, even though the clerks apparently failed to find my request. However, the FBI was adamant and refused. Time passed. I desired the information and finally, four years after my initial and ignored request, I filed the then required DJ-118 form the attached copy of which was provided to me by the FBI. (Exhibit 11)

117. This FBI record also reflects its success in misleading the courts and in misrepresenting my requests. It also is pertinent to this Court's recent citation of the last appeals court decision in that case in which it is represented that my inclusion of the President's shirt collar and tie represent an enlargement of my request. This request, Exhibit 11, is quite specific in stating that it includes all "objects" allegedly struck by bullets or fragments of bullets,

including garments and part of vehicle and curbstome." I did not and could not have enlarged an all-inclusive request.

118. In replying to the Department about this request (Exhibit 12), the FBI began by seeking to incite prejudice against me in an inaccurate and incomplete reference to an action under the McCarran Rider later found to be unconstitutional. (Among its omissions is the subsequent public apology to me over this action. My then counsel included a former federal commissioner, a former federal appeals court judge and a former subcabinet officer who was later a Supreme Court Justice.) Along with these personal defamations used regularly by the FBI as a substitute for fact, ^{which} ~~which~~ it cannot refute my accurate writing, it described my writing as "vitriolic and diabolical." These characterizations appear to have been much favored by Director Hoover, who employed them in his handwritten notes. His underlings in the FBI repeated them regularly whenever they had occasion to refer to my writing. As indicated above and as is reflected in Exhibits 8 and 9, the FBI has not been able to find factual error in my writing, as it has not been able to confront my affidavits and appeals factually. That its political diatribes and false characterizations were also designed to intimidate all those, especially those in the Department, who received copies is reflected by the fact that not one ever once raised any questions of fact in the countless records I have read. These include the Department's JFK assassination file. (I do not suggest that this kind of treatment was reserved exclusively for me. It is, from my extensive study of FBI records, standard practice for the FBI when it is criticized or even when it suspects criticism. Even the general counsel of the Defense Department, who had the same questions I raised about the FBI's five-volume report to President Johnson, received similar treatment in disclosed FBI records, as did several attorneys general and a United States attorney.

119. This record, too, is from the FBI's "subversive" file on me in which it is the officially indexed or recorded copy, as Serial 18⁷. Again bearing on how the FBI files and how it can ignore records in searching, this record is captioned as my FOIA request but is indexed not as that but as "subversive."

120. The FBI took the position that because it had already disclosed what it wanted to disclose it had disclosed all it was required to disclose. (Page 2) All the FBI had disclosed to the Commission is that it regarded the specimens tested as "similar." This means nothing at all, except that the tests did not disclose what is required by the FBI's solution to the crime, identical composition. Later, when I deposed the FBI's expert, he actually testified that the FBI never states the results of such tests as "similar" even though this was the very word he used in his Commission testimony which the FBI claimed was the only disclosure required of it. In this present litigation I obtained some previously withheld pages of the Laboratory worksheets, including his notes. They reflect this FBI expert's interpretation of "similar." He stated that the results of the spectrographic examination of the curbstone showed that the deposit tested should have been caused by an automobile wheel weight. That is hardly the same as or even "similar" to a bullet or fragment of bullet.

121. How the FBI prevailed in the first litigation for the spectrographic ^{phic} examination information without even making any search is paralleled in this ~~case~~ instant cause. In both there are sworn and unsworn untruths. Although the attorney general and other high officials of the Justice Department had actually wanted disclosure of the information I requested, the FBI's counsel told that court that the attorney general had determined that disclosure would not be in the "national interest." Aside from being untrue, this was not a provision of the Act and Congress had decided that it could no longer used as an excuse to withhold. Along with this,

Something omitted

The FBI denied that any records were withheld from the Commission

the second Lab agent who had stated that I and my writing had to be "stopped," Marion Williams, swore that disclosing the results of these nonsecret tests would be ruinous to the FBI and would lead to disclosure of the identifications of its confidential informers and be a "national security" holocaust. This was transparently false, was never argued again, and when, after years of litigation, there was disclosure, none of the forecast disasters were visited upon the FBI or the country.

122. Related directly to continued withholdings in this instant cause and my allegations of FBI untruthfulness in the alleged searches for David Ferrie records and the FBI's withholding of them is its reference to Ferrie records on pages 3 and 4 of Exhibit 12. As the FBI itself interpreted my Ferrie request of

more than a decade ago, it includes all documents "withheld from the Warren Commission." The FBI's response is absolutely false: "Comment: No documents relating to David William Ferrie were withheld from the Warren Commission." Miami there were Ferrie records of which I have personal knowledge that the FBI withheld from everyone. It continues to withhold them from me even after New Orleans SA Clifford Anderson belatedly admitted finding some, which also refer to still others. This untruthful FBI claim to having given the Commission all of its Ferrie records was long before the time Anderson conjectured some were destroyed. I have all the FBI Ferrie records in the Commission's files and all those of the Commission's copies originally withheld by the Department's order (page 3) and they do not include the records to which I have referred - without refutation - throughout this instant cause.

123. Phony as it is, the New Orleans Ferrie search slip in this instant cause in itself gives the lie to the FBI's statements to the Department that it withheld no Ferrie records. That slip lists records the FBI did not provide to the Commission.

124. There is no doubt that long before I filed this litigation I requested and the FBI knew I requested all its Ferrie information, including what it allegedly later destroyed. There also is no doubt at all that the FBI lied, either without making a search or after making the search that obviously disclosed the existence of pertinent records it had withheld from the Commission and from me.

125. In this litigation the FBI has taken the position that if information I requested in it also is included within other requests, only the other requests are pertinent. With regard to the still withheld Ferrie information, my first request was in 1967, I made another request that the FBI clearly understood correctly in 1970 (Exhibit 12), that same request is included in this litigation, and as of today all the Ferrie records still have not been processed. With regard to some of this withheld Ferrie information, in this litigation I informed the FBI where it is. Yet ~~when~~ Anderson provided a declaration he still did not provide the Ferrie information he did locate after I identified it and at the same time pretended to compliance.

126. Clearly, the FBI is determined not to comply. Its record is one of repeated untruthfulness. It is not envisioned in the Act, as I understand its language and intent, that in 1983 I am required to repeat my prior requests of more than a decade ago that still have not been complied with or that I must file a separate lawsuit for that requested information which also is included within this 1978 case. The FBI seeks to place an enormous burden on requesters and the courts this way and, within my extensive experience, **succeeds**.

127. This FBI's FOIA attitude that if it disclosed what it wanted to disclose and not what was requested it had complied with the Act also is reflected on pages 4 and 5. This refers to the deliberately unclear and deliberately corrupted pictures of the President's shirt collar and tie that the FBI provided

to the Commission. The FBI held that because it had provided unclear and unfaithful copies to the Commission the Act did not require it to provide copies of its clear and uncorrupted pictures of this basic evidence to me. The significance of the FBI's position and its actual reasons for refusing me a clear copy of these photographs - which it had not provided to the Commission - became apparent on examination of them and when I deposed an FBI Lab agent in another case in which they are exhibits. In order to have it believed that an exiting bullet had gone through the knot of the President's tie, when it had not, the FBI undid the knot and photographed it reconstituted so that a hole appeared to be in the center of the knot. With regard to the shirt collar, it is apparent that a clear photograph depicts the fact that the two slits in it, allegedly made by an exiting bullet in the FBI's solution, in fact do not coincide, are not even the same length and could not have been caused by a bullet. (In fact, they were caused by a scalpel during emergency procedures in the Dallas hospital, as was the nick, not a hole, that actually was at the upper left extreme of the knot of the tie as worn.) The FBI agent testified that because he had had the same question whether those slits could have been caused by a bullet, he had directed an additional study be made by a Laboratory fibers expert. It is with regard to the results of this test, which will withheld by the FBI, that the appeals court was misled concerning the scope of my request, as indicated above in connection with my DJ-118 request that includes the "garments," Exhibit 11.

128. The foregoing Paragraphs represent the kind of information that is embarrassing to the FBI when I compel its disclosure. These Paragraphs also illustrate that the FBI can be embarrassed by exposure of the flaws and errors in its investigation of this most serious and most subversive of crimes. In addition, they illustrate how the FBI deceived and misled President Johnson, for whom its

investigation was made, and the Commission, for which the FBI provided most investigatory and laboratory services.

129. I believe that is because the FBI is well aware of the truthfulness of my allegations about its campaign of noncompliance and to "stop" me and my writing and of the contents of its records like those I attach and refer to herein that it has not made any effort to refute my allegations. I believe that this also is why instead FBI counsel has made sneering and deprecating references to them and to my alleged imagining of these things instead of confronting my allegations. These records, some of those provided in incomplete response to my request for the FBI's records on and about me, reflect its tricky filing, its stonewalling and noncompliance policy, its policy of deceit, misrepresentation, untruth and slander in avoiding searches and compliance and the means by which it negates the Act and creates and inflates entirely unnecessary cost statistics by means of which it seeks limitation of the right of the people to know under the Act.

130. In seeking first discovery and now dismissal in this case, in contradiction of all of the entirely unrefuted evidence I have produced and without even pretending to produce any evidence of its own, the FBI continues to seek immunity for what it continues to withhold, for not having made the required searches, and for perpetuated withholding of what is improperly withheld from the disclosed records. When I offered to dismiss because of my seriously impaired health, it refused and instead insisted upon a costly and impossible Vaughn index. Some of its withholdings cannot be justified. Some of those that Phillips swears are necessary, in another of my cases the FBI swore to the opposite, that they are in violation of its policies and practices in such historical cases. This is literally true with regard to the withholding of the names of special agents in

such historical cases. This is literally true with regard to the withholding of the names of special agents in the last half of the records processed in this case, after they were not withheld from the first half. At the very time Phillips swore to the need to withhold (what had already been disclosed in any event) the FBI swore ~~in~~ ⁱⁿ C.A. 75-1996 that its policy had changed as of 1977 and thereafter it would not withhold such names. Meanwhile, in this litigation it had already disclosed much more than the names of these Dallas agents. It provided me with a list of them, their home addresses and phone numbers, and thereafter asserted a "privacy" claim to withhold merely the names - from records that could be embarrassing to the FBI if the names of the investigators were not withheld.

(Exhibit 13)

131. Based on my ^{FOIA} ~~FOIA~~ experiences with the FBI and its public record, I believe that if it succeeds in having this case dismissed it will thereafter refuse to disclose any of the information it withholds and will claim, although it has not and cannot ^{justify} ~~justify~~ its withholdings, that the matter has already been decided by this Court - without the Vaughn index not made, which could not justify these withholdings if it were made.

132. Based on this experience and knowledge, I believe also that the FBI will claim immunity for the relevant records it has not even searched for by claiming that they are included within my litigated requests. It has done this in the past.

133. It thus seeks the sanction of this Court for perpetual withholding of all its undisclosed information relating to the assassination of the President and its investigation from any and all other requesters.

134. The only reason I have persisted in this litigation after my arterial surgery and its serious and severely limiting consequences is to prevent the FBI's

misuse of me and this litigation for the Orwellian purpose of suppressing important information while professing "exhaustive" efforts to disclose all. I know of no other reason for the FBI to have rejected out-of-hand my offer to end this litigation without prejudice to the rights of others.

135. I know of no reason other than intended noncompliance for the FBI not to have made the preliminary and final searches required of it by its own regulations or for its failure to abide by other provisions of its regulations or for its failure to respond to my proper invocation of its regulations, either when I filed my requests in 1977 or at any time since.

136. I cannot conceive that compliance with my requests would not have been much less costly and time-consuming than forcing litigation and then prolonging it by stonewalling that is contrived by endless departures from truth, as I have documented in detail throughout this long litigation. Moreover, compliance with my requests would have eliminated forever what now will be inevitable, additional requests for what remains withheld and greater costs in meeting those requests or still greater costs in litigating to resist disclosure.

137. If the FBI had really had any problem with my requests, if it had abided by its own regulations instead of violating them deliberately - and its violation was deliberate because I invoked its regulations in my requests - any such problems would have been eliminated easily. I believe the FOIA exemptions are proper and necessary. This is not to say that I agree with the FBI's interpretations and unilateral revisions of them, which I have opposed. From personal experience I know the importance of protecting genuinely confidential sources as from the FBI's deliberate abuse of my rights to privacy I am made more aware of the genuine privacy rights of others. My record with the FBI in FOIA litigation, including in this litigation, bears me out.

a) 138. In this litigation I declined duplicates of the FBI's tapes of its electronic surveillances of Marine Oswald as well as transcripts of them. In other litigation I reported the disclosure of the identities of FBI symbol informers, even after it became apparent that such disclosures could not all have been accidental and that some were for the FBI's own ulterior purposes. (The FBI never responded, did not replace the records with excised copies to protect its symbol informers and never asked me to return the copies identifying them. One identified informer was in the mafia.)

139. With regard to privacy and rights under the Privacy Act, when it became apparent that the FBI was going to disclose defamatory JFK assassination records and it had not complied with my request (and my appeals also were ignored), my counsel wrote and telegraphed ^{first the} ~~the~~ FBI Director and then the Attorney General asking that I be enabled to exercise my Privacy Act rights. Neither he nor I received any response from the Director or the Attorney General and the truly malevolent mendacities with which it had larded its records were not only disclosed and converted into a perpetual defamation - the FBI called them to the attention of the press, some of whom consulted me about them the day of the disclosure of those many thousands of pages of FBIHQ general releases.

140. From the outset, from before the first calendar call in these cases, as I have attested without even unsworn contradiction, it was apparent that the FBI intended not to comply with my requests and would be compelled to resort to misrepresentation, deception, evasion and untruth. It thus left me no real alternative to documenting these abuses. I have done that with regard to each and every filing. Because what the FBI has done in this litigation is as I describe it, it has not refuted me and on only a few occasions has made any effort to do so. When it did, nothing was too demeaning, as for example Phillips' persistence in

insisting that the FBI provided me with "photostatic" copies when I did not receive a single photostat from it, or his subsequent insistence that all dictionary definitions are wrong and his fabrication is correct with regard to the kinds of copies provided and with regard to ticklers.

141. Aside from the FBI's pursuit of its long-standing vendetta against me and my work, what it has accomplished by more than five years of totally unnecessary litigation is using the Act that requires disclosure as an Act for suppression of public information; and having done that, it now seeks sanctions against me in an effort to procure a judicial license to continue to suppress now and in the future and for Shylockian extortion. Initially FBI counsel tried to intimidate me through my counsel (and perhaps him also) by threatening to have me thrown in jail for contempt. He then also found it appropriate to scoff at the permanent disabilities and circulatory illness of a septuagenarian, as my counsel has stated. When I was not intimidated and when it was without question that I was not going to be intimidated, he backed off on contempt and attempted jailing and sought dismissal as a sanction - in FOIA litigation in which, after more than five years, the initial searches to comply with my requests still are not made and attested to and in which none of the withholdings has been justified. In its quest for sanctions, which is no more than a cover for its newfangled Cointelproing of the Act and of me and for its deliberate suppression of what can be embarrassing to it, the FBI leaves this factual record:

- 1) it has presented no testimony to the need for discovery of any kind;
- 2) it has not refuted my attestations that it has no need for any discovery;
- 3) it has not denied that voluntarily, before it sought discovery, in my ignored affidavits and my also ignored appeals I had already provided it with all the information and documentation I have that it pretends to seek by discovery;
- 4) It has not denied that, until the untruthful allegation in the Motion to Dismiss, it had not even claim to need discovery;

5) it has not denied that it still has not made searches to comply with my requests, as it has not and I attested it has not;

6) it has not denied that, if unintentionally, Phillips disclosed that it did not make searches to comply with my request and instead and without searches provided only records of its own choice;

7) it has not denied that even after I informed it that it had not made searches to comply with my requests it still refuses to make those searches;

8) it has not denied that this unnecessary if not also inappropriate discovery is extraordinarily burdensome, particularly because of my advanced age and seriously impaired health and consequent physical and medical limitations;

9) it has not denied that it still has not searched for and processed pertinent records I have identified in this litigation;

10) it has not denied that it knowingly and deliberately misrepresented the instructions to it by the Department pertaining to "critics" and that it did not file topically and could not search or retrieve topically;

11) it has not denied that even after I informed it of this it still refuses to make the searches directed by the Department;

12) it does not deny that it has not yet made any searches for such clearly pertinent records as ticklers - not even as described in Phillips' rewriting of the dictionaries I quoted - or the tapes of the Dallas police assassination broadcasts or for many pertinent individual and organizational records I have identified, including among others those on individual "critics" and their organizations and on David Ferrie, which I identified by their correct file numbers;

13) it does not deny that it has pertinent information filed outside the few main files to which it sought to limit me in addition to the relatively few pages it was forced to process;

14) it does not deny that it has not yet made any ELSUR searches and that it still has not made Dallas and New Orleans searches to comply with the instructions of the Court with regard to them;

15) it does not deny that the records it identified and withheld and withholds as "irrelevant" are not irrelevant but are clearly within my requests;

16) it does not deny that it is required to have and has not searched for other copies or versions of allegedly destroyed records;

17) it does not deny that it has and has not searched special repositories holding pertinent information, some of which I identified correctly; and

18) it has not denied my allegation that its discovery demands were not made in good faith and are harassment.

142. Whether or not there is a judicial determination of ^{the}~~fact~~, as I have alleged, that FOIA places the burden of proof on the government, the FBI has not even bothered to deny this.

143. As I have attested throughout this litigation, the FBI has not even claimed to have met its burden of proof of showing that it made searches responsive

to my actual requests and justified its withholdings. (The Act states that "the burden is on the agency to sustain its action.")

144. If the FBI really believed that sanctions against me are appropriate, it and its counsel have all the many affidavits I have filed in direct contradiction of their own, and the government has the opportunity, if not indeed the responsibility, of seeking to punish perjury if I swore falsely.

145. I have the subject-matter expertise of which the FBI informed another court, stating that I knew more about the assassination and its investigations than anyone in the FBI; and I have the FOIA experiences with the FBI to which I have attested in this and in other litigation. And there is the record I have made, subject to if not challenging refutation throughout this litigation. I therefore have no reason to believe that the FBI or the Department will seek any judicial determination of whether the FBI or I swore falsely, as I have no reason to believe that the FBI's sworn infidelities to fact were not known to be unfaithful to fact when uttered. The FBI and the Department know very well that I have been truthful and accurate.

146. I know of no provision of FOIA for sanctions against requesters/ plaintiffs, but I do know of provisions for sanctions against "agency personnel" who "acted arbitrarily and capriciously with respect to withholding" (4(F)) and for "noncompliance with the order of the Court" (4(G)), both of which I believe are pertinent in this litigation.

147. In this affidavit (on which I have not been able to work continuously and will not have time to reorganize) I enlarge upon some of the allegations I made pertaining to searches not made and for which no assistance from is either necessary or testified to in any manner by any agency employee; to discovery and whether or not it is necessary or appropriate; and to the FBI's ulterior motives

~~and~~

and I believe entirely improper actions in this and in other of my FOIA requests and lawsuits against it to show a pattern. While the additional records I attach hereto are not the result of a special search, which is impossible for me, and are not by any means complete, they make it clear, I believe, that the sneering deprecations by FBI counsel in substitution for any evidence from it are inappropriate and unfaithful to fact as the FBI very well knows. I have also addressed the Motion to Dismiss with uncontradicted evidence and have pointed out that (a) both it and the FBI's representation in requesting discovery cannot both be truthful (and that neither is) and (b) that it does not address the uncontradicted factual evidence in my earlier affidavits.

148. When I was able to appear before them, one of the questions asked most frequently by collegiate audiences is, if the government has nothing to hide, why does it hide so much? I believe the question is self-answering and that it also is appropriate in evaluating the demands for discovery, made without any supporting evidence and in the face of all the evidence, and the Motion to Dismiss, guised as a sanction against me, when the FBI has not yet made searches in response to my requests. If the FBI has nothing to hide in its ticklers (which is where I found that it has me filed under bank robberies and yet did not produce those records in response to a number of requests); has nothing to hide in its tapes of the Dallas police assassination broadcasts and related records; has nothing to hide in its ELSUR records and indices; has nothing to hide in its records pertaining to its investigation of this terrible crime and the persons and organizations involved therein - if the FBI has nothing to hide, why does it hide so much and steadfastly refuse even to search? The question is rhetorical. The FBI has much to hide and therefore does not search and therefore seeks sanctions against me for my accurate exposures and my persistence in seeking the information it has

suppressed for almost two decades.

149. The vigorous, extensive and less than honest FBI campaign against me that is only partially indicated in this affidavit and its attachments has successfully obfuscated the nature of my work and study. It is not the pursuit of a real-life mystery, of a whodunit. I have made and continue to make a study of the functioning of our basic institutions in time of great stress and thereafter. In this litigation I believe more than in any other case the government has written its own history, in addition to requiring me to assist it in doing so. Regardless of the outcome of this litigation and the immediate government objectives in seeking the sanction of dismissal and earlier in its discovery diversion, this history is written. As a subject-matter expert I am satisfied that no historian could record this history as the FBI has forced it onto paper in permanent court records; and if there is hardly any other endeavor to which I would not have preferred devoting that part of the time that still remains to me which has been consumed in this litigation, there is no outcome that can make it a waste of time in my study or in history. History, an ancient Roman philosopher once said, writes truth. This litigation, regardless of its outcome, now is part of the history of the functioning of our basic institutions (which include the Department of Justice, the FBI and the courts) in that time of great stress, when our entire system of self-government was nullified by the crime of assassination, and thereafter, continuing as long as anyone seeks the government's public information and as long as disclosure of it is resisted.

150. After I completed the draft of this affidavit and my wife was returned to me, I found a document consisting of a series of four 1970 FBI records I had collected for use in this affidavit that had gotten mixed in with papers on my desk relating to another matter on which I had been working. (Attached as Exhibit 14) This

document, also from FBIHQ's file on my alleged subversion, is captioned "FREEDOM OF INFORMATION ACT." No duplicate filing in any JFK assassination file is indicated. The FBI's response to the DAG pertaining to my FOIA requests relates to Exhibit 12 above and to other of my requests to which I refer above. As can be seen, the FBI's answer to everything consisted in defaming me, for all the world as though that is in any way related to an FOIA request.

9 | 151. (These reiterated FBI allegations of disloyalty against me also reflect its dishonesty, the dishonesty of its searches and its retrieval from its own files and its intent to defame by selective disclosures in which it discloses unfair defamations while withholding exculpations. Prior to the time of the State Department's public apology and retraction of its action against me, one of my then counsel discussed the apparent unfairness with Mrs. Ogden Reid, then owner of the New York Herald Tribune. As a result its chief Washington correspondent, Pulitzer Prizewinner Bert Andrews, was assigned to report the entire matter. He did, at length, and his reporting was published extensively in other papers that are clipped and filed by the FBI. This includes the Washington Post, where it was front-paged. Andrews' investigation included an interview with J. Edgar Hoover. He told Andrews that there was no case at all and that under the same conditions he would not have done anything to FBI employees. This information has not been disclosed by the FBI, I believe because if it had it would not have been able to poison the minds of those many who received the FBI's dishonest and intentionally prejudicial accounts. This ^{also rep} ~~also rep~~ presents incomplete searches and/or improper withholding. Likewise, the FBI has continued to withhold J. Edgar Hoover's letter praising some of my World War II period investigative reporting, the patriotism and loyalty of which are beyond question, as is its public good.)

152. My request of December 2, 1970, repeats ignored requests I made two

years ago, both accompanied by checks. All parts of this request pertain to New Orleans and/or Dallas records. I have never heard anything from FBIHQ or from either office, including when I raised questions pertaining to these withholdings in this litigation, in which all parts of these requests are included. This also identifies the still withheld identification pictures used by the FBI in New Orleans when it briefly looked for a known but unidentified Oswald associate. (There may have been more than one such Oswald associate.) After receiving this request, the DAG referred it to the FBI. It responded twice, first telling him that "extensive research" would be required (a not inconsiderable exaggeration because only a phone call was required) and then misleading and misrepresenting to him. This memo also reflects the FBI's concept of vigorous investigation, how in its proud boast, it "left no stone unturned." It did not give a motion picture of Oswald being arrested - with three others not mentioned - and showing other persons nearby, a motion picture described by four witnesses as including an unidentified Oswald associate, to the Presidential Commission for which it was investigating, "because the arrest had been completely documented, and other film was available regarding the incidents leading up to the arrest of Oswald." Without non sequiturs the FBI could be crippled.

153. All that the FBI states, even if true, is not relevant to its or the Commission's examination of a motion picture for its evidence, which ranges from identification of Oswald's mysterious associate or associates to the dependability of the witnesses who testified inconsistently to the arrests and what led to them. Moreover, I do not recall seeing any of these earlier photographs to which the FBI refers. I am confident that they do not exist in Warren Commission files and have not been provided to me in this litigation, although there is reason to believe that the New Orleans FBI had such pictures and suppressed them. The first paragraph

of my request refers to this possibility.

154. The FBI's "extensive research" referred to is not unlike its "exhaustive ~~research~~ ^{searches}" in this litigation - almost nonexistent. All that "research" told the DAG is only what I had ~~already~~ told him, that the FBI had returned the two amateur films. The FBI set out to deceive and mislead the DAG and it succeeded; it did not let him know that the FBI made and had copies of the films, which I had reported, and it deceived him into believing that it had returned those films without making copies.

155. After the FBI disclosed the Doyle film under a request more than a decade after mine, I complained and eventually received a copy. It still has not provided a copy of the John Martin (Minneapolis) movie or the others. It simply did not respond. In this litigation they still remain withheld.

156. As my letter states, I obtained copies of some of the films from the owners, all of whom claimed that the FBI had removed parts of their footage. What makes this particularly provocative about the Martin film is what happened when I obtained it from him. I had addressed a large noontime audience of University of Minnesota students. Several older men, obviously nonstudents and not of the press, were in the audience with a ~~hidden tape-r~~ ^{hidden tape-r} recorder that showed when they changed tapes. When the meeting broke up, they followed me and a smaller group of students who assembled elsewhere. Martin came up to me and offered me his film. He, some other students and I went to his home, he got his film, and we then went to a private university projection room where we examined it. However, instead of taking it with me, as Martin had offered, I arranged for one of the students to have copies made locally, to mail a copy to me and to return his copy to Martin. Nobody outside this small group knew that I did not have his film.

157. When I left Minneapolis that evening on a plane that originated there,

I saw my luggage go down the correct chute. On leaving the plane at its first stop, Kansas City, I was the only passenger whose luggage was missing. When it finally reached me several days later, the air line representative^{ative} told me he did not believe the explanation given to him but he could offer no other explanation. My clothes were a shambles and every scrap of paper, my receipts and even papers of matches, had been removed from my Valapak. My brand-new portable typewriter was virtually demolished, without leaving a scratch on the case, and an also new tape recorder, without a visible scratch, had been fixed so it would not record.

158. Obviously, if the FBI altered Martin's film, that is significant information. Because Martin charges that it did, if it did not, that also is significant information. But the FBI, typically totally nonresponsive, has not provided a copy, including in this litigation.

159. In its letter to the DAG the FBI acknowledged that it withheld any and all information about Martin and his film from the Commission. This perhaps represents some FBI concept of investigating the assassination of a President and his allegedly lone assassin who the FBI had been told by many witnesses was not alone. And although my request states explicitly that I had a copy of Martin's film, the FBI's nonresponse to the DAG and its revision of FOIA is that I get a copy from Martin.

160. The James Powell/Army Intelligence picture referred to was not provided to me by the FBI until a decade or more later, long after it was provided to a later requester who then published it. When I complained to the FBI, it did provide a copy, but nothing else, no copy of any records or other pictures, and no reference to any search for them or their existence or nonexistence. Moreover, this FBI report to the DAG underinforms him to the point of deceiving him. It fails to mention the fact that Army Intelligence Agent Powell rushed into the building

from which the FBI claims all shots were fired, was there for the search of the building, and had his loaded camera with him. The FBI makes no reference to this, to any other pictures, or to any other reports. It represents that Powell, outside the building, took only one photograph, and it referred me to him for it. It does not appear to be unreasonable to believe that an Army intelligence agent, inside the building for a long time and armed with a camera during the search at the scene of such a crime, might have taken some pictures and filed a report or reports.

161. What makes this, and particularly the FBI's nonresponsiveness pertaining to any other Powell pictures and reports, more provocative is the fact that all of the records of his intelligence unit have been destroyed. This is not supposed to happen, but it did, years ago, and the Army informed me of it. The Army records had been sent to Indiantown Gap, Pennsylvania, for storage but were destroyed. And what makes this even more provocative, again something strictly prohibited, the Army also destroyed all its JFK assassination records and so informed me. As I recall it, the Army identified three nasn files to me. Nobody ever bothered to explain why any Army records in any historical case, or any Army records pertaining to the assassination of a President/Commander-in-Chief, would be destroyed.

162. With regard to the professional New Orleans TV film still not provided or even offered, the FBI first rewrote the copyright law, as in time I was forced to establish by the litigation it forced, and then told me to get the film from the stations, although my letter states that I had already and wanted to compare the FBI's copies because one of the stations had informed me that some of its footage had disappeared.

163. What makes this, too, more provocative is the fact that the Secret Service also examined that footage at the time of the assassination and its

description states clearly that Oswald had and was with an unidentified associate the FBI has yet to identify. (This also is the subject of another old request in which I sought the fingerprint identification of one such associate, a request to which there has been no response from either FBIHQ or New Orleans.)

164. That the FBI received my requests and understood them is reflected in its report to the DAG in which it paraphrases them. That my check was received and cashed also is clear. Yet except as indicated above, I have not received any response from the FBI to this date and no response from either field office in this litigation even though I have repeated these specific requests on a number of occasions during this litigation. No search has been made, no search has been reported - the FBI just stonewalls and now it pretends it needs help from me in searching. This obviously is not true and it is one of the multitudinous indications of bad faith in the FBI's discovery and sanctions demands.

165. The inadvertent omission of this document reminded me of an earlier such inadvertency, dropping the reference in the retying of my April 10, 1983, affidavit to its attached Exhibit 13. That Dallas record, provided in this litigation, reflects the truthfulness and accuracy of my attestation that the FBI never investigated the crime of the assassination itself but was dominated from the first by Director Hoover's instant vision/lone-nut-assassin solution. One of the areas of embarrassment to the FBI is disclosure of shortcomings and failings in its investigation.

166. The preceding paragraph refers to a Dallas FBI memo of the day of the assassination, written before Oswald had been charged with the crime, reporting that a nearby sheriff "advised JIMMY GOERGE ROBINSON and members of the National States Rights Party should be considered possible suspects in the assassination." Before there was any investigation, even before Oswald was charged, the FBI in

Dallas wrote on this memo, "Not necessary to cover as true subject located."

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167. Even if the FBI had had any way of knowing at that time that Oswald was the "true subject," as it did not, it certainly had no way of knowing in those first few moments that there had not been any conspiracy. But no conspiracy ^{had} ~~been~~ ^{been obtained} ~~obtained~~ and there was no genuine conspiracy investigation, even after it was clear beyond question that the acknowledged evidence of the crime showed that it was beyond the capability of any one man. (In this the matter of the still withheld police broadcast tapes is relevant.)

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511

168. What makes this instant FBI decision, that Oswald alone was guilty and its refusal to investigate anything else, even more provocative is that disclosed records reveal not fewer than three such threats against the President by the National States Rights Party in that area at that time. In addition, only three days before the assassination the President's motorcade in Miami was forbidden by the Secret Service after one of those NSRPer had been taped in a threat against him. Using an informer who had been an FBI symbol informer, the Miami police made this tape and gave it to the FBI, which still withholds it from me. I did request it.

169. In regard to the allegations of bank president William Walters, the former FBI New Orleans clerk, some of the records of which Dallas deliberately hid, as without denial I have already established in this litigation, the FBI investigation of his allegations of a threat against the President is limited to a teletype, which it states it did not find. It makes no reference to any search for any other form of communication. Several other threats of that time against the President are recorded in form other than teletype. One in the Dallas area is that some of these extreme rightwingers were going to "rub his dick in the dirt" when the President was in Dallas. This also was reported to the FBI by local

authorities. No report of any subsequent investigation has been disclosed to me in this litigation.

170. Related to this immediate FBI determination not to investigate the crime itself are other existing records not disclosed in the so-called Dallas and New Orleans searches that also report this determination. That the records exist is revealed in what was disclosed to another requester in the records of the Little Rock field office. Not long after the crime FBIHQ notified all field offices that their investigations were to be limited to Oswald and not the crime, which the FBI regarded as solved. This disclosed record is the memo of that special agent in charge reporting this to all his agents. It states specifically that FBIHQ had communicated this to all field offices, and all includes Dallas and New Orleans. I provided a copy to the FBI. It has been silent since. Specifically, no Dallas or New Orleans search for any such records is reported and no such records have been provided to me. The obvious explanation is what I have referred to as "tricky" FBI filing by means of which it can retrieve anything it wants to retrieve but also can hide information from FOIA requesters by keeping it out of the main assassination files and by refusing to search any other pertinent files. (Another illustration of this already in the case record is the New Orleans withholding from its main assassination files of its inventory of them. The Dallas copy was in those files and was provided. This led to my proving that Dallas was knowingly and deliberately withholding pertinent records, which embarrassed the FBI.)

171. This addendum further reflects permeating FBI bad faith with regard to all of my requests, including in this instant litigation; that its noncompliances and refusals to search are deliberate; that its demands for discovery and sanctions are motivated by bad faith and have no basis in fact; and that all it has done in this litigation is designed to frustrate compliance, negate the Act, overburden the

courts and me, and is part of its decade and a half old scheme to "stop" me and my writing by tying me up in unnecessary litigation. Moreover, while some of my allegations in this litigation may be new to the Court, none are to the FBI, whose own records, of which Exhibit 14 above is only the newest illustration that I provide, reveal the completeness and accuracy of the information I provided, that I always provided more than enough accurate and pertinent information, and that no discovery was ever at any time needed. From my extensive experience, only some of which is indicated in the completely accurate attestations I have provided in this litigation, if the FBI needs anything pertaining to searches or compliance, it is a willingness to abide by the law, make good faith searches and comply with requests.

Harold Weisberg

FREDERICK COUNTY, MARYLAND

Before me this 13th day of June 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.

NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

ADDENDUM TO JUNE 13, 1983, AFFIDAVIT OF HAROLD WEISBERG

172. After I completed this affidavit I obtained proof of the truthfulness of my allegations relating to New Orleans FBI SA Clifford Anderson's declaration pertaining to his alleged search for David Ferrie records. This is also to say that I then obtained proof of the FBI's and Anderson's intent not to be fully informative and responsive, of their intent to deceive, mislead and misrepresent, and of their intent not to be honest and not to make proper searches while attesting to "exhaustive" searches.

173. I received a copy of a record that was disclosed to another requester but is still withheld from me in this litigation. This record exactly fits the description I provided in earlier affidavits that, characteristically, were entirely ignored. Anderson did confirm that there had been a neutrality act file on Ferrie, which I alleged. I also referred to other Ferrie records but in his declaration in pretended response Anderson made no reference to them. I had provided the number of a file in which another copy was filed, 105-1456 FRD. Anderson still did not produce the record he admits finding in this 105-1456 FRD file. I then stated that inevitably, from standard FBI practice, Anderson and the FBI knew ^{where} ~~where~~ to find other and existing copies if the one that I referred to had been destroyed. I raised questions about the truthfulness of Anderson's attestation to destruction and I stated this New Orleans 105-1456 FRD file pertains to anti-Castro activity. In referring to Anderson's phrasing, which I stated was not really his but was that of FBIHQ, I described it as "loose language" that for an expert like Anderson is "imprecise if not evasive." I also stated that Anderson has a record in my litigation of swearing to whatever he is told to swear to by FBIHQ without regard to what he knows.

174. The FBIHQ copy of a New Orleans report in its 105-1456 FRD file

disclosed to another confirms all that I attested to. It also raises substantial questions about Anderson's untruthfulness and intent to deceive, mislead and misrepresent to this Court.

175. "FRD" represents "Frente Revolucionario Democrática." The New Orleans title also includes "aka," given as "Cuban Democratic Revolutionary Front," "Friends of Democratic Cuba" and includes an "etc." The et cetera includes a number of persons who are named and on whom there also are records. In some instances their file numbers are listed.

176. Distribution to and the existence of pertinent records in other field offices also are indicated.

177. The FBIHQ serial number on this file indicates that there are many pertinent records in it, not just the one to which Anderson attested. (I have knowledge of others that are disclosed, but not to me, having seen this one.)

178. Not just David Ferrie but all of the organizations and all the persons mentioned (meaning those names not obliterated) figure in all investigations of the JFK assassination, including those of the FBI, the Warren Commission and Jim Garrison, and thus all are within my requests. Pertaining to Ferrie, Anderson claimed making a search that was not and could not have been made for this litigation. He and Phillips attested that it was made in this litigation.

179. Although this record was classified Secret and claimed to be exempt from automatic downgrading, which is not supported by its content, and it was first disclosed in 1978, ^{it} ~~albeit~~ then still withheld from me, no claim to exemption was made. It just was not included in any search. The entire ~~file~~ file is pertinent.

180. Three copies were sent to FBIHQ for its main file 105-87912 and a fourth ^{FBIHQ} ~~FBIHQ~~ copy was sent for its 105-89923 file. This establishes that at FBIHQ any missing New Orleans copy could be replaced from not fewer than two different

files, as could also be done from the other field offices and agencies to which copies were sent and are listed. This is precisely what I had attested to.

181. The reason for Anderson's imprecise language that I described as "loose" and "imprecise if not evasive" is apparent once a copy of this record is examined, and this, I believe, accounts for his not providing it after he located a copy. This also accounts for FBIHQ's, particularly its FOIPA branch's, failure to provide their readily accessible copies. More copies were filed in New Orleans than Anderson's supposedly first-person attestation includes.

182. Moreover, still another copy was made for and filed in still another New Orleans file the identification of which is removed from this copy provided to another requester. No claims to exemption were noted on the copy provided to him so the claimed reason for this withholding is not known to me.

183. As without possibility of doubt Anderson knew, if as he swore he examined any copy of the record I referred to, two copies of it were filed in 105-1456 FRD, not the one to which he attested. He thus could easily swear that a copy was destroyed and not provide any record of its destruction because the second copy survives. (It is common FBI practice to note destruction of duplicates on remaining copies.) He could also swear in seeming safety that apparently the destroyed copy was not indexed because the destroyed copy would not be the indexed copy. And he made no mention in his declaration of any filing under another caption, where it also could have been indexed.

184. The subject matter of this file, its extensive routing inside and outside the FBI and the persons, organizations and activities mentioned in it leave ~~no~~ without doubt that an experienced FBI SA like Anderson and his FBI counterparts ^{HQ} knew immediately that all copies of it simply would not be destroyed.

185. Bearing on FBIHQ intent, this file was under review, for disclosure,

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a second time at approximately the time FBIHQ was telling Anderson what to swear to - which it now is clear means telling him to swear to what is not true, to what deceives, misleads and misrepresents, and not to provide it.

186. Other records in the same file inevitably refer to other pertinent persons and organizations and thus it is inevitable that other individual records, including those referring to Ferrie, also exist in other known and easily searched files. In FBI practice, those files and offices the author of the report intends copies for are indicated by him and others are added at FBIHQ. Depending on their content, other individual records in this file were routed to other field offices. There also are other FBIHQ files in which other records in this New Orleans file also are duplicated.

187. It is entirely improbable that there is but a single reference to Ferrie in this New Orleans 105-1456 FRD file because he was an active member and because one of his "boy friends," Layton Martens, then a minor, worked for FRD and also was picked up by the police outside the residence of the titular leader, Sergio Arcachia Smith. He and Martens also figure in all official investigations. Martens also was charged with perjury in Garrison's investigation. During that period Martens stayed in touch with the New Orleans FBI.

188. The FBI was well aware of the pertinence of this file to my request. Moreover, the FBI provided information from it to the Warren Commission.

189. Other persons who figured in all official investigations and are pertinent in this litigation also are mentioned in this New Orleans file.

190. One of these other persons represents an area of potential embarrassment to the FBI that I have not indicated earlier. Guy Banister was a former FBI Special Agency in Charge of one of its major divisions, Chicago. He was an incorporator of this group. He, too, figures in all official investigations.

191. This group also was connected with the CIA. Just before the Bay of Pigs the CIA required it, the major ultraconservative Anti-Castro outfit, to combine with the trade-union anti-Castros. The CIA got them together at the Skylark Motel in Miami about a month before the Bay of Pigs, knocked their heads together until they agreed, and then supported and financed the merged group under the name of the Cuban Revolutionary Council (CRC). It was to provide the CIA's government in exile if the Bay of Pigs operation had not failed.

192. The CRC had the address 544 Camp Street in New Orleans. Oswald also used that return address on some of his literature. The Warren Commission was never able to get a copy of this from the FBI, and it did try. In the end it obtained a copy from the Secret Service. In its "no stone unturned" investigation the FBI in New Orleans never did get around to telling FBIHQ or the Warren Commission that 544 Camp Street was the very building in which Guy Banister had his offices. It also never reported that Ferrie, too, worked in Banister's office. (This investigative brilliance, together with the joke of a New Orleans investigation of the CRC, was the work of the case supervisor, SA Ernest Wall. He managed to report his investigations in reports of a mere six and seven lines.)

193. Consistent with all of this, when the New Orleans FBI learned that the Secret Service was conducting its own investigation of the printing of Oswald's literature, it immediately applied pressure to have the Secret Service abandon its investigation. When the printer said it was not Oswald who picked up the printing, the FBI told the Warren Commission the opposite, that it was Oswald.

194. If Oswald had been a paid FBI informer, of which there is no evidence, although this allegation was made in Dallas, the FBI's reaction to this Secret Service investigation could not have been more immediate, forceful and close to hysterical.

HAROLD WEISBERG

declaration of this character.

not making good-faith searches and for FBIHQ to draft and Anderson to swear to a
intend in the immediately preceding Paragraphs to indicate possible FBI motive for

misrepresentative and evasive nature of Anderson's referred-to declaration, I
199. In addition to addressing the untruthful, deceptive, misleading,

None of this is indicated in any report the FBI disclosed to me.

Garrison parties and he reports the presence there at that time of David Ferrie.

New Orleans office during the Garrison investigation at what amounted to anti-

198. As I attested earlier, I have the notes of a reporter who was at the FBI

relationship between Ferrie and Oswald when Oswald was a Marine and at Kessler Field.

conducted no investigation to determine whether there was or could have been any

(with virtually all the records of it suffering a mysterious disappearance), it

Biloxi, Mississippi, and the FBI knew that Oswald took advanced radar training there

197. Likewise, although Ferrie took New Orleans CAP boys to Kessler Field,

Dallas.

Filed New Orleans the day of the assassination, as soon as Oswald was identified in

whether they had any relationship, then or later, not even when it knew that Ferrie

Air Patrol (CAP) together. The FBI never conducted any investigation to determine

196. This is not unusual. Oswald and Ferrie ~~was~~ in the New Orleans Civil

NOTE

invite pro-Castroes to get themselves beaten up.

investigated to try to learn why the ostensibly pro-Castroite Oswald would try to

was pro-Castro despite all the evidence that this was merely a cover, so it never

financed and supported anti-Castro group in New Orleans. The FBI decided that Oswald

proclaimed pro-Castroite, would use the return address of the largest and CIA

195. I know of no FBI investigation to determine why Oswald, the self-

FREDERICK COUNTY, MARYLAND

Before me this 17th day of June 1983 Deponent Harold Weisberg has appeared and signed this addendum to affidavit of June 13, 1983, first having sworn that the statements made therein are true.

My commission expires July 1, 1986.

NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

EXHIBITS

No.	Paragraph	Page
1	19	8
2	72	25
3	77	26
4	79	26
5	81	27
6	90	30
7	91	30
8	96	32
9	97	32
10	100	22
11	116	38
12	118	39
13	120	45
14	150	52

CC/13/F3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....	:	
HAROLD WEISBERG,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTIONS NOS. 78-0322
	:	and 78-0420
FEDERAL BUREAU OF INVESTIGATION,	:	Consolidated
et al.,	:	
	:	
Defendants.	:	
	:	
.....	:	

AFFIDAVIT

My name is Harold Weisberg. I reside at 7627 Old Receiver Road, Frederick, Maryland. I am the plaintiff in these consolidated cases. My subject-matter expertise, professional experience and medical and physical limitations are stated in my earlier affidavits and have not been disputed by the defendant.

1. Once again it required at least a week for the FBI's filing, its Motion to Dismiss, to reach me because FBI counsel ended its practice of sending copies of all filings to me. I always offered to pay the costs and the FBI always refused to accept payment. I asked my counsel to ask present FBI counsel to send me copies, for which I offered to pay, and I was informed that he refused. I believe that under FOIA I am entitled to receive copies, if not immediately, and that under FBI practice I would not be charged for them. I know of no purpose served by this refusal, by this ending of years-long practice in some cases directed by the court because of my distance from my counsel, other than to cause these inevitable delays. These delays required that my counsel request additional

17

time and they restricted the information I could provide him. In particular, since this past February, they caused greater delays and problems for him and for me because of lingering additional illnesses that began with bronchitis and was followed by pneumonia, pleurisy, ecchymosis (a kind of internal hemorrhaging that is potentially dangerous for me because I live on a high level of anti-coagulant, which can cause death) and periodic exhaustion that my doctor says can be expected to last for a month after the end of these new illnesses. From the time I received this Motion to Dismiss until Tuesday, June 7, I had at least one medical appointment every working day, more often two and sometimes even three. These, too, seriously reduced the time in which I could prepare information for my counsel and the time I had for preparing it. I also found that making two trips a day to my basement to obtain needed records was too much for me and ended the work I could do that day. These illnesses, added to my permanent physical and medical limitations, delayed preparation of this affidavit. It also will require more time for my wife to retype it because she also suffers the bronchitis that is epidemic in this area and because of her age and other medical problems is more painful and limiting for her.

2. Now that on May 18, 1983, the FBI has moved for sanctions against me, I believe it is necessary for me to show that its Motion to Dismiss is based upon what I regard as fraudulent misrepresentations and to show once again that, although the FBI has not even pretended to support its motion with evidence, the existing and unrefuted evidence in the case record that I have provided proves the FBI's allegations and representations are not truthful. To the best of my recollection I restrict myself in this affidavit to evidence that is in the case record and has not been rebutted by the FBI. In this I am stating that the only unrefuted evidence in the case record is diametrically opposite the FBI's

representations.

3. In my affidavit of May 28, 1983, which I incorporate by reference, I state that the FBI's Motion to Dismiss contains untruthfulness of such a nature it cannot be regarded as accidental error, that it contains misrepresentations and that it and the FBI's prior motion for discovery cannot both be truthful because each is based upon contradictory and inconsistent representation - neither of which is supported by any evidence and neither of which the FBI even pretended to support by any evidence.

4. Inherent in all the FBI's misrepresentations in these consolidated cases, whether these representations be under oath or advanced in pleadings without any claim to any evidentiary support, is the identical and basic concatenation of misrepresentations that I believe constitute fraudulent misrepresentations.

5. I state the belief that an attempt is being made to victimize me by fraudulent misrepresentation based on the evidence that follows and the belief, coming from my extensive FOIA experience with the FBI and its counsel, my knowledge of the intent of the Congress in enacting and amending FOIA (in which I have a well-known involvement because one of my early FOIA cases against the FBI was cited as requiring the 1974 amending of the investigatory files exemption of the Act), from knowledge of the legislative history of FOIA, from FBI regulations and practices, and from the official statements regarding FOIA and its purposes going back to those of the President and attorney general in 1966 in their ringing endorsements of the Act and its purposes.

6. I believe that, except for information that is within the exemptions of FOIA, the information I requested is mine as a matter of legal right and, through me, is the information of the people as a matter of their right.

7. I believe that under the Act the burden of proof is exclusively on the

defendant and that under the Act I have a right to expect the defendant to meet the burden of proof and not seek by any means, overt or devious, to impose it upon me or any other plaintiff/requester.

8. The most basic of the FBI's false representations is that my requests are limited to four main files. My actual requests, for reasons stated most recently in my May 28, 1983, affidavit, are quite explicit in stating that they are not so limited. My requests include all pertinent information "not contained within" these FBI main files.

9. In this long litigation, the FBI has never provided any attestation, whether or not truthful or made of personal knowledge, and it has not provided any pleading by counsel that is addressing my actual requests or addresses them in any way. Everything the FBI has filed is based upon the FBI's initial and perpetuated misrepresentation of my actual requests. I have stated this over and over gain, under oath, without refutation or attempted refutation or even merely pro forma denials. To the best of my recollection, each of my attestations to this fact remains ignored by the FBI.

10. As I also stated without refutation, I became aware of the FBI's intent not to comply with my actual requests before the first calendar call in this litigation, before any record had been processed, on the day Judge Oberdorfer recused himself. That day my counsel and I conferred with the FBI's then counsel, who told us what the FBI planned in substitution for my requests and I informed him that this was not acceptable to me and would not comply with my actual requests. I have stated this repeatedly throughout this long litigation and the FBI has ignored it. It has not denied or made any effort to refute it.

11. This means that the FBI knew before it processed any records that I regarded what it planned as not complying with my actual requests. Under the FBI's regulations, which I have cited without dispute in this litigation, if it disagreed

with me or could not understand my requests or had any problems with them, it was required to ask that I rephrase them and offer assistance in this. It never made any such claims and never did any of the things required by its regulations.

12. This was only the first of continuing FBI violations of its own regulations. These regulations required it to make an initial search and inform me of the approximate volume of records within my requests, the approximate cost of providing them, and the approximate cash deposit it would require. Although at the time of my requests no fee waiver had been granted and it was being opposed by the FBI, the FBI never informed me of the approximate volume of records, their cost or the size of the deposit it would require. The FBI also requires this information from the preliminary search for its own purposes, including determination of whether or not the request involves enough records for it to be classified as a "project" case, for projections of personnel needs and assignments and similar needs.

13. This was not an "accidental oversight by the FBI because I requested this information of both the Dallas and New Orleans offices: "I would appreciate it if you could let me know the estimated volume of records involved in this request and when you expect to begin processing..." Not only was this information mine as a matter of right under the FBI's own regulations, it was essential in order to be able to pay the down payment the FBI would require of me.

14. Although I have attested to the informats!n in the immediately preceding paragraphs earlier in this litigation, to a large degree on more than one occasion, the FBI has not only contradicted me. It has ignored my attestations. It has never at any time made any belated attempt to comply with its own regulations; never alleged that my requests are not comprehensible; never claimed that it faced any problems in either understanding or complying with them; never asked for any explanation of them; and it never asked that I rephrase or change or modify them

or offered any assistance in any rephrasing of them.

15. As I earlier attested without dispute, in other of my FOIA litigation a number of FBI FOIA supervisors offered testimony on behalf of the FBI addressing what they testified are its undeviating practices in FOIA matters. It determines whether there are pertinent records, whether or not the volume of records classifies it as a "project" case, what their approximate volume and cost to the requester will be, and all the other information required by the FOIPA branch for its own information and for it to provide to the requester. In this litigation the FBI did not do any of these things that are required of it.

16. The FBI knows very well that FOIA responses require at a minimum at least two searches at the outset, one to determine whether or not it has any pertinent information and its volume and then the search to locate and process any pertinent information. In these cases it never made either search. It did not determine and inform me of the approximate volume and cost of processing the requested information and the time this would require and it did not make the searches required for compliance with my requests. Instead, as in an unguarded moment of aberrational honesty Supervisor SA John N. Phillips attested, the Dallas field office forwarded my request to FBIHQ where, arbitrarily, capriciously and for ulterior and improper purposes I attested to earlier without dispute, SA Thomas Bresson decided that I would be limited to three, later amended to four, of the main files my request is specific in stating it is not limited to. Dallas, which claims to have provided all its search slips, did not even pretend to make any search until October 15, 1980, almost three years after it received my request and about two years after it first claimed complete compliance. To these main files to which my request of it specifically is not limited, the New Orleans office pretends to have made a few additional searches under the names of only a few of the persons

it knew are involved in the federal and New Orleans investigations of the assassination of President Kennedy and even then did not locate all its records on those persons. Even now the FBI continues to withhold much of the identified information that is not in these main files. Among the many defects of the alleged New Orleans search to which I have attested without refutation or even pro forma denial is the fact that most of them are dated almost a year prior to my requests and thus cannot be searches made pursuant to my requests. Neither office made or pretends to have made any search for any information related to any of the organizations involved in these investigations, although that is specifically requested of both offices.

17. Even when I provided some of these names voluntarily - the FBI never requested any such information from me - the FBI steadfastly refused to make those searches. And as I have attested, when the appeals office directed that it process information pertaining to those known as "critics" of the official investigation, the FBI engaged in a deliberate false pretense, that the appeals office had directed it to make a search only under the topic "critics" when the appeals office and the FBI knew that it does not file that way and cannot retrieve topically. To date, even after I provided many FBI records reflecting the foregoing, the FBI refuses to make any part of the search it was directed to make pertaining to "critics" and when I offered to dismiss this litigation after it processed it information pertaining to some of the known "critics" that I identified, it persisted in this refusal.

18. Although the FBI claims to have searched under the topic "critics" in both field offices and it swears that the search slips it provided are complete and authentic, it has not provided any search slips or requests of any kind pertaining to the topic "critics" or to any person known as a "critic." Likewise,

although it claims to have made ELSUR searches at each office, as I attested in my May 28, 1983, affidavit, the FBI has not provided any search slip or search request of any kind relating to any ELSUR searches.

19. The plain and undenied truth is that the FBI knew very well that my litigated requests include "any information related in any way to the assassinations" of both Dr. Martin Luther King, Jr., and President Kennedy. I quote, with the emphasis of the original, the August 14, 1978, memo from the Department's then appeals director to the FBI's then FOIPA chief, Inspector Allen McCreight (attached as Exhibit 1). The FBI knew and it agreed that any such records "being released to anyone will also be released to" me.

20. This particular copy of this memo is, in fact, from the FBI's FOIA file on me and clearly was known to its FOIA personnel involved in this litigation. That the FBI correctly understood the Department's intent is stated in other internal records disclosed to me. Moreover, the Department informed me of this in writing, including the fact that the FBI had agreed. Despite this agreement reported in Exhibit 1, the FBI did not abide by its agreement and the Department's directive in this litigation or when it provided JFK assassination information to others.

21. Even when I made special requests for JFK assassination information, the FBI disclosed to others and withheld from me, the FBI failed and to this day continues to fail to provide me with or offer me this already disclosed and processed JFK assassination information. Among the examples of this are the ignored requests I made when the FBI did not abide by its and the Department's word after books conforming to the FBI's assassination views were published by Edward Jay Epstein and David Lifton. I made separate requests for the identical information and to this day the FBI has not complied. Another example is my request

for the information provided to the House Select Committee on Assassinations. After four or five years my request remains entirely ignored by the FBI. But another and later requester has filed suit and the FBI is providing him with information. It has not informed me of its disclosures to this other requester. It has not even asked me if I would like copies.

22. Although the FBI did not dispute that it had agreed to provide me with all information pertaining in any way to the investigation of these assassinations, it never intended to keep its word and it did not contradict any of the information I provided to the Department and it forwarded to the FBI's FOIPA head with Exhibit 1.

23. The truth is that a year earlier the Department promised the Senate's FOIA subcommittee that some 25 of my requests the FBI had ignored for up to almost a decade would be complied with. (Some of this information is within this litigation and has not been provided in it.) As of today, more than five years later, the FBI has not done so. In fact, Inspector McCreight, also a witness before that subcommittee and then present, refused to make this promise. He also did not contradict the testimony of the Department's witnesses, that the FBI's behavior with me in my FOIA requests was inexcusable. The Department promised, the FBI then stonewalled and thereafter extended its stonewalling to this litigation, despite the directives to it by the Department and its agreement with them.

24. Among those 25 old and ignored requests that also are pertinent in this litigation is the request I first made under date of January 1, 1969. I accompanied it with the deposit then required. It includes certain motion and still pictures. Not one of these has ever been provided to me voluntarily by the FBI and most still remain withheld. In two instances, after I complained to the FBI that it had disclosed these films to later requesters and still withheld them

from me, I obtained copies. The others remain withheld. Although I attested to this earlier in this litigation, the existing and correctly identified films of both kinds remain withheld from me as of today.

25. (It was common practice to cash my checks and send me nothing at all. Once my check was shredded, then patched together crudely with scotch tape and deposited. It cleared all banks and was charged to my account.)

26. With regard to these and other requests (all also within this litigation) that I made of the FBI that year, I wrote the attorney general on January 1, 1970. These and all other FBI films of both kinds are included in my January 1, 1970, renewal of my FOIA requests. I received no response at all. I then wrote the deputy attorney general on December 2, 1970, after the change in administrations, about these same requests. That resulted in an internal investigation some of the records of which were disclosed to me. They disclose the existence of FBI copies of these films. But even after FBIHQ learned again from this internal investigation that its field offices had copies of the requested films, they were not provided. (This internal investigation also established that some of these films also were withheld from the Warren Commission by the FBI.)

27. Under date of May 28, 1979 (and perhaps on other occasions), I filed a lengthy and detailed appeal pertaining to this information then withheld in this litigation. In addition to about 2,000 words of information and detail, I provided copies of the FBI's own records reflecting its possession of the requested still and motion pictures. I never received any response to this appeal.

28. This encapsulation underscores the spuriousness of the FBI's pretenses that it requires more information from me for searches. It reflects the FBI's determination not to search and not to comply.

29. With the long and consistent FBI record of refusing to search and

refusing to comply after it was provided with proof that it had pertinent and withheld information - which it did not need in any event to make a proper search - and with the record of the attorney general, the deputy attorney general and the appeals director, of doing nothing at all when the FBI was obdurate, there is no reason to believe that, if the FBI had the discovery it demands in the form in which it demands it, it would do anything more than concoct another stonewalling cock-and-bull story. Moreover, I reiterate that I have provided all of the requested information and documentation of which I am aware and that the FBI does not deny this.

30. That the FBI had copies of some of this film also is disclosed in the records it provided to the Warren Commission and it in turn disclosed. Among these still withheld pictures are six stills from one of the also requested and withheld motion picture films that the New Orleans office used and displayed in interrogating witnesses to some of Lee Harvey Oswald's activities in New Orleans.

31. Another New Orleans withholding that persists until now in this litigation overlaps an old FOIA request I made pertaining to one Ronnie Caire. The FBI's internal investigation after I complained to the Department disclosed the existence of Caire records the FBI had denied existed. However, that did not result in their disclosure then or since then in this litigation.

32. These January 1, 1969, film requests and other related requests pertain to one of the FBI's larger investigatory failures and shortcomings. This has to do with the existence of a publicly unidentified Oswald preassassination associate. In the FBI's solution, this means an associate of the assassin. The FBI has and continues to withhold information identifying this associate of the alleged assassin it never identified. It made only a perfunctory New Orleans investigation. It obtained fingerprints from one of Oswald's leaflets. I also

made a separate, prepaid request for that information. This involves both FBIHQ and the New Orleans office at the least. That separate request also remains ignored. That information also remains withheld in this litigation. If it is not filed in any main assassination file, it is still within my litigated requests, and I first requested it almost fifteen years ago.

33. These are among the countless proofs that the FBI's present false representation, that I am supposedly enlarging and shifting my requests, is knowingly and deliberately false. I believe it is also a fraudulent misrepresentation to defraud me now, as I was defrauded in 1969 when my check was cashed and I received nothing for it. It also was asserted to threaten me with possible incarceration. My counsel reported to me that the FBI's counsel had made such noises to him recently about a possible contempt charge. While it may not be the major item in point, I believe that it is significant that these are ignored 1969 requests, repeated in 1970 to the attorney general and the deputy attorney general and on appeal in this litigation in 1978. I select these as illustrative because they are the oldest of the 25 documented ignored requests tabulated in another case in 1976, because the FBI and the Department continued/hereafter to ignore them, because the same information is sought in this litigation and is withheld, and because these are the requests the Department promised the Senate in 1977 would be complied with promptly and have not been complied with. This information also is included in my ignored affidavits in this litigation. Given this record, all known to the FBI and the Department, I believe it is obvious that any allegation that I shift or enlarge my request is knowingly and deliberately false.

34. Moreover, it is obvious that when my request was interpreted by both the Department and the FBI as encompassing "any record related in any way to the

assassinations," the words and the emphasis of the appeals director in Exhibit 1, and it begins by referring to the FBI's agreement to this and to providing me with any JFK assassination information provided to any other requester, it simply is not possible for me to expand or enlarge my requests and the FBI and the Department know it.

35. The foregoing illustrations are only illustrations. There are countless such matters that characterize this case and to a large degree are set forth in my affidavits and are not contradicted. They are merely ignored. Taken together with the fact that my requests are admittedly all-inclusive, as is stated in Exhibit 1, the FBI's own FOIA record pertaining to my litigation, I believe that the FBI's false statements, misrepresentations and deceptions throughout this long-stonewalled case, particularly in its discovery stratagem and more recently in its demand for sanctions that include my repaying it for the money it squandered to defraud me, are not accidental. I am defrauded of my rights under the Act and if I pay it I am defrauded of the money it has wasted in defrauding me. If the case is dismissed based on its untruths, then I am defrauded even more. Contempt, of course, can be more serious.

36. In the light of these actualities rather than the FBI's fictions, one of the FBI's representations in seeking the sanction of dismissal is ridiculous and ludicrous. It is that its "discovery is merely designed to ascertain the facts and/or documents which a (sic) plaintiff claims exist and which allegedly demonstrate that the agency's search was not adequate." (Page 2) Until the FBI proves that it has searched for all its/^{requested}information, its search cannot possibly be represented as "adequate." It has neither done this nor claimed that it has.

37. Moreover, as I attested in my affidavit of May 28, 1983, this is an entirely different representation than the one made to procure the discovery Order.

Then it was not alleged that I had not provided this discovery information, as uncontestedly I had. If then was alleged instead that, because the FBI had ignored that information and documentation when I provided it, I should now be required to draw it all together for the FBI, which is to say, do the work it should have done and failed to do.

38. Although the FBI knows it has not searched to comply with my requests and has not provided all the pertinent information it knows it has, as is reflected in Exhibit 1 of five years earlier, it now represents that my "failure to comply with a discovery order deprives a defendant (i.e., the FBI) of a full and fair opportunity to prepare its case and deprives the courts of information indispensable to a proper adjudication of the issue." (Page 4) This is obviously and knowingly untrue.

39. This is followed by the equally and knowingly false representation that my "refusal to answer its (the FBI's) discovery will deprive it of a meaningful opportunity to demonstrate that plaintiff's assertions about the adequacy of the FBI's search are baseless." (Pages 4-5) While without it the FBI knew my requests are all-inclusive and it made no searches to comply with my requests at all in Dallas and made knowingly inadequate searches in New Orleans, neither disputed when I attested to both repeatedly throughout this litigation, it is beyond question that it knows such allegations are false.

40. If none of this were true, as all of it is, until the FBI attests that it has searched to comply with my actual requests and has done as directed and agreed to (in Exhibit 1), any such representations are on this basis alone at least premature. The FBI has not provided such attestations in this litigation and it does not try now.

41. Because the FBI knew that its attestations in this litigation do not

conform with fact and truth, to the degree possible it provided incompetent attestations by one who, if faced with the charge of perjury, might defend himself by claiming that he did not know anything at all about what he swore to. While I believe that FBIHQ SA John Phillips did cross the line and did swear falsely to what he did know was not true, much of his swearing is to what, undeniably, he did not know of personal knowledge. Moreover, when I attested to this, neither he nor anyone else speaking for the FBI, under oath or otherwise, disputed me in any way. Yet in all instances, the FBI has available to it those who do have personal knowledge. It is my understanding, coming from the Londrigan and other decisions, that personal knowledge is a requirement. It is undenied that those who have personal knowledge are available to the FBI for such attestations.

42. One example of this that I select because of the frequency of my repetition of it under oath and because of the FBI's careful restriction of its responses to Phillips, who neither had nor claimed any personal knowledge, is the matter of the FBI's copies of the tapes of the Dallas police radio broadcasts of the time of the assassination. Only Phillips, who has no knowledge, provided attestations, and he swore only falsely. He shifted his falsehoods in an effort to deny new evidence as I produced it. In plain English, he lied his head off, even though his official responsibilities, if not legal training, let him know that to provide any competent attestation he required personal knowledge. His official position also told him who could or did have such personal knowledge in Dallas. None of this deterred Phillips or FBI counsel, who were also informed by my undenied, unrefuted and unrefutable and documented affidavits. They also prove that the FBI undertook, from the outset, to hide its copies of these Dallas police radio tapes. This also is undenied. It cannot be denied because I provided the FBI's own proof of it. The FBI provided it to me in this litigation.

43. In this matter also it is obvious that neither discovery nor documentation is required of me for any purpose. Here also I provided voluntarily what the FBI both ignores and demands again under discovery.

44. I select the matter of the police radio broadcast tapes of the many available illustrations because, in addition to my having provided all the information I have about them; it is a matter about which the FBI had earlier lied to the Department and to the panel of experts it convoked to study those tapes. The FBI's lie is that it did not have these tapes when it did and it knew it did and its own records contemporaneous with the lie and disclosed to me in this litigation establish that it did. (Its earlier contemporaneous records, as without denial I attested, are deliberately misfiled outside the main assassination files and still have not been searched for.) The attorney general had promised the Congress that he would have such a study made. As without dispute I also attested earlier, based on records with which the FBI did not trouble me, the Department simply gloated when it was possible to arrange for this official study to be made by private sector persons who are outside FOIA. They never had the FBI's still withheld copies of those tapes for their "study" and were reduced to using what the FBI's own records describe as crumbling and damaged versions of the poorest quality.

45. This is far from the FBI's only withholding from the Congress and its duly authorized investigating committee. As I have also attested without refutation or even unsworn pro forma denial, in this litigation the FBI undertook to limit me to the field office companion files of FBIHQ's main files to which it intended to limit this Congressional committee. Those FBIHQ main files just happen to be those the FBI had already disclosed. Once I was able to compel the FBI, in this litigation, to disclose the field office companion files of these FBIHQ main files, the FBI schemed to withhold from that committee what it was disclosing to me.

In its internal scheming, as I have already attested and illustrated with the FBI's own record withheld from me but provided to another, if the FBI could not get away with total withholding from it, it planned to offer the Congressional committee a "compromise" - copies of some of the records disclosed to me in this litigation, as long as the committee did not want too many of them!

46. This matter also reflects the FBI's intent not to provide me with pertinent information within my requests and its intent not to keep its word as recorded in Exhibit 1, to provide me with copies of any and all JFK assassination records disclosed to anyone else. A later requester duplicated one of my requests. When he received no compliance, he entered suit. The FBI is compelled to make disclosure to him. However, it has not provided me with what it discloses to him, has not offered it to me or even asked if I want it. Yet five years ago it agreed with the Department that it would provide all such information to me.

47. There are many FBI records bearing on the deliberateness of its non-compliance and refusals to search, some in the case record and unrefuted. Others I cannot now search for and retrieve are in the case records of other of my lawsuits against the FBI, are well known to it and its counsel, and they also are unrefuted. In this litigation Phillips, who has a record of swearing to anything at all, had not addressed these allegations. I believe that this is because the FBI's record and its own records are clear and unequivocal on this and because of the possibility that I might produce additional FBI records refuting any such representations. Recently, in reviewing the far from complete records the FBI provided in response to my request for all its records on me, I did locate a few more FBI records supporting these and other allegations I have made in this litigation.

48. One of the records that is in the case record and is ignored by the FBI is the memorandum of the then Department director of appeals, Quinlan Shea, stating that the FBI was withholding many pertinent records from me because it had them filed in files that it simply refused to search or comply from. He held that filing is not relevant to pertinence. This is exactly the point in and purpose of the FBI's refusal to search in compliance with my requests and its arbitrary, capricious and entirely improper FBIHQ decision to limit me to a few main files even though my request is explicit in stating that it is not limited to them.

49. Mr. Shea discussed this with me. He stated that, whether or not it had made a proper search, New Orleans appeared to have at least made a gesture toward complying with regulations but that Dallas had not even made any such gesture and had not complied. This was not rectified by Dallas, which never made any search until October 15, 1980, in response to a few directives from Mr. Shea. The inadequacies of the New Orleans searches and their phoniness is documented in my prior affidavits and, despite the declarations subsequently filed by Phillips and New Orleans FOIA SA Clifford Anderson, remain undenied. (It can hardly be denied that searches dated a year before my requests were not made in response to my requests.) Mr. Shea was so dissatisfied he told me he planned to send an assistant to both offices to supervise searches. He then lost that assistant, who accepted other employment.

50. An oft-repeated example of this tricky filing and refusal to search is the FBI's tapes of the broadcasts of the Dallas police for the period of the assassination. Without question, despite Phillips' repeated false swearings to what he knew nothing about, the Dallas FBI obtained them. This is stated in the FBI's own records pertaining to the study and analysis the attorney general agreed in 1979 to have made of these tapes for the five minutes of time of the assassination.

that an open microphone made the voices broadcast incomprehensible to the human ear.

51. The request was by the House Select Committee on Assassinations whose eminent experts had concluded that their analysis of the versions of tapes it had established the firing of a fourth shot which, the committee concluded, meant that there had been a conspiracy to assassinate the President. The FBI's solution holds that only three shots were fired.

52. Although the Dallas FBI did make and have these tapes and did transcribe them for the Warren Commission, this is not reflected in the special Dallas index. It, however, is limited to the few main files that, without dispute, do not hold all information pertaining to the assassination and its investigation. As of today no search for these tapes has been made in Dallas and no attestation to any such search has been provided by Dallas. This is precisely the sort of thing the director of appeals referred to. Those tapes are indubitably and undeniably within my requests, do exist, are withheld and, despite such motions as this to dismiss, have not yet been searched for after more than five years.

53. It is obvious that the FBI needs no help from me in making a belated search for these tapes and it is undenied that I have provided it with all the information I have. It also is undenied that there is nothing more I can provide under discovery. This also included documentation. I have provided the FBI with its own records reflecting when, where and how it made copies of these recorded broadcasts, with its records establishing that it had transcribed them for the Warren Commission, and with all the information I have that does not come from its records. I even provided it with the pertinent content of its own special index, which establishes the tricky filing outside the appropriate main files.

54. This gets to motive for such refusals to search and such withholdings,

motive in addition to the FBI's stated purpose of "stopping" me and my writing (about which more appears below). If the FBI now provides me with copies of these tapes and still withholds pertinent records, it thereby admits not only that it swore falsely in this litigation instead of searching - it admits that it lied to the Department in not providing these tapes for the use of the attorney general's special panel referred to above. It also is possible that those withheld records contemporaneous with that very untoward event, the obliterating of what the police broadcast at the very moment of the assassination, disclose that instead of appearing to have ignored this exceptional development, the FBI was aware of it and still was silent. It is possible that the FBI's contemporaneous tapes are superior to the recordings of the police, which were not stored properly and have been scientifically rated as of poor quality for such a study.

55. There are numerous such matters that now can be very embarrassing to the FBI, numerous investigative failings when it supposedly investigated "the crime of the century." I have referred to some of its failings and faults in this litigation. My accurate reporting of some of them in my writing was so embarrassing to the FBI that it concocted its scheme of "stopping" me and my writing by filing a spurious libel suit against me. I have found some of these records in the personal records that were disclosed to me. All exist in the FBIHQ main files. I also provided copies of them in other litigation and in appeals. (See Paragraphs 65 ff.)

56. These records disclose that the FBI filed my information requests as "subversive" in its file on me as an alleged subversive, 100-351938. The FBI's 100 classification means "Subversive Matter (Individual); Internal Security (Organizations); Domestic Security Investigations." To it, as I have alleged without denial throughout this litigation, my requests for information related to

these most serious and truly subversive of modern crimes and its investigation of them is subversion.

57. These records also reflect the inconsistency of FBI filing and how, through tricky filing and indexing, it can attest to a search that does not disclose records it knows exist. This, too, is something I have stated without refutation throughout this litigation.

58. Some of my supposedly "subversive" records are "Not Recorded." This is to say they are not the record copies that are indexed. Others are the "Recorded" or record and indexed copies. Thus a search limited to what is indexed to the FOIPA files (190) will not report the existence of my information-request records filed and recorded as "subversive" (100). (It is my recollection that other FBI records pertaining to my information requests are also filed under classifications other than 100 and 190.)

59. Those processing FBI records can and do expose the deliberate inadequacy of its searches. For example, when FBI reporting of my allegedly subversive life could include seemingly derogatory information, they disclosed what appeared to damage my reputation, the FBI's purpose in its distributed rehashes. Where the identifications of the underlying files were not withheld, these FBI rehashes disclose that existing known and identified records were not searched and were not provided. There were a number of instances of this, I appealed, and after more than five years my appeals remain ignored and the FBI itself has not responded in any way.

60. In this litigation, as I have attested without contradiction, the identification/^{of} withheld pertinent records on "persons and organizations" who are "critics" of the FBI's investigation was disclosed. I appealed, sometimes including the disclosed Dallas and New Orleans file numbers, and the FBI still has not

searched for and has not provided these identified and pertinent records. In that appeal I was successful, but the FBI deliberately contorted and misrepresented Mr. Shea's directive into what he and the FBI knew to be an absolutely impossible topical search. The FBI does not file that way and cannot retrieve that way. I attested to this repeatedly, attaching FBI records stating that it does not file and cannot retrieve topically, and the FBI has not denied it. Yet it still has not made the required searches. Instead, it demands that I provide it with the information it knows it does not require for belated searches without attesting to any such need, and thus stonewalls this litigation, attempts to rewrite and largely nullify FOIA, and tries to shift its legislated burden of proof onto me.

61. As an FOIA requester/plaintiff of some experience, I attest, based on this experience, particularly with the FBI, that requiring discovery of any requester, even a wealthy requester who can afford to pay counsel for the considerable time and costs this would require, for practical purposes largely negates FOIA. I cannot pay my counsel and if required to do as the FBI demands, it might take the rest of my life, something the FBI has not denied or contradicted in any way.

62. Another example of this tricky FBI filing that has resulted in the withholding of JFK assassination records from me even after they are processed for and disclosed to another (and thus should have been provided to me on that additional basis, as is stated explicitly in Exhibit 1) is filing these assassination records only under the file classification of a Congressional committee. I have provided illustrations of this in attachments to earlier affidavits.

63. This further illustrates how not making field office searches and instead limiting me to a few main files can withhold pertinent information that is not filed in these main files. I have provided illustrations of this, without any

contradiction even being attempted.

64. The field offices do not have duplicate files as "Not Recorded" copies. This means that information withheld by such filing would not be disclosed by accident through the disclosure of duplicates filed elsewhere and/or properly.

65. When I attested to these matters and practices in my earlier affidavits, including how the FBI schemed to "stop" me, Phillips, who could have made a search and disputed me, made no response at all. Instead, FBI counsel made sneering comments without any basis for them being either cited or existing.

66. The first of these FBI schemes to "stop" me and my writing was cooked up by Lyndal L. Shaneyfelt. He was an FBI Laboratory photographic expert who was in a liaison role with the Warren Commission. The FBI provided that Commission's photographic services, including duplicating film and photographing its reenactment of the crime. LIFE magazine had the rights to the best amateur motion picture of the assassination, made by the late Abraham Zapruder. It provided the Commission with color slides made from individual frames of this movie. Shaneyfelt did the Lab work on these slides and made black-and-white copies for publication. As he testified, he numbered the slides to correspond with the numbered frames. They are known to this day by Shaneyfelt's numbers.

67. In the official solution of the crime, it was not possible for Oswald to have shot the President until Frame 210, when he was in the course of being hidden from Zapruder's camera by a road sign between it and the limousine.

68. In the original film - and this is a matter about which Shaneyfelt was totally silent - this and the frames around it are missing. Shaneyfelt, pretending none of this had happened, numbered the slides as though they include the frames that they do not include. In fact, where one slide clearly depicts the splice made when the top of the first missing frame was cemented to the bottom of

the last, this FBI expert gave that hodgepodge the number of the bottom half.

69. The original motion picture only has an image that is not shown on projection. It is captured on the film between the sprocket holes by which the film is moved. This amounts to about 20 percent of the total area and information of the exposed film. Shaneyfelt never testified to this or to the information between the sprocket holes. If he had given honest testimony about this sprocket-hole information, he would have testified in contradiction to the official solution, which was decided upon by the then FBI director the very day of the crime and prior to investigation. (My attestations to the latter fact remain undisputed.)

70. In filming the reenactment of the crime, Shaneyfelt did not use the Zapruder camera and did not photograph the reenactment from where Zapruder did. He thus, by his own admission to the Commission, wound up a full third wrong in the quintessential timing. His expert's fairy-tale explanation to the Commission is that it could ignore this error because he made a yellow mark on the enactment film at the correct point.

71. These are far from all of Shaneyfelt's and the FBI Lab's failings in investigating and in reporting its investigation of the JFK assassination. It was embarrassing to Shaneyfelt, his Lab and his FBI when I exposed these and other shortcomings in late 1966 and early 1967. This is what led to his scheme to "stop" me. Shaneyfelt wrote a memo about it on January 26, 1967, to go upward through the chain of command. In it he alleged I was inaccurate and libeled him and the FBI. No FBI component investigated his or my accuracy. Instead, it was merely assumed that I libeled him, and on this assumption the FBI's Legal Research Desk, without making any effort to determine fact, decided that the FBI could use Shaneyfelt as a front to sue me. The decision moved up to Director Hoover.

72. What Shaneyfelt bucked to Hoover about my first two books is that they

"appear to be libelous of both the Bureau and SA Shaneyfelt. Accordingly, in an effort to discourage and stop such highly irresponsible and unwarranted attacks against the Bureau on the part of Weisberg and others like him, the Bureau may wish to explore the feasibility of having a libel action brought against him in SA Shaneyfelt's name." (Emphasis added. Exhibit 2)

73. This recommends explicitly that the FBI "stop" me and my writing and that it do this by using Shaneyfelt as a front, suing me in his name. This is not the only such FBI reference to "stopping" me and my writing and it is not the only one to originate in the Lab.

74. So there would be no doubt about Shaneyfelt's and the Lab's intentions, to have the FBI use him as a front for suing and "stopping" me, he also stated, "SA Shaneyfelt, of course, contemplates no action in the matter unless desired by the Bureau."

75. Shaneyfelt's stating that "of course" he would not personally sue me was not without other purpose in the FBI of that time when, it has been widely reported, its bureaucrats were manipulating the aging Director J. Edgar Hoover. Moreover, former FBI Assistant Director William C. Sullivan states in his book, "The Bureau: My Thirty Years in Hoover's FBI," that it was well known throughout the FBI that Hoover had a horror of FBI involvement in civil litigation. So, Shaneyfelt and the Lab, without confronting my accurate exposures of their failings, used this means of defending themselves to the top FBI brass, including Hoover, and at the same time presented themselves, not only as super-loyal and self-sacrificing, but also as willing to be used as a front by the FBI while having no intention of suing me for any other purpose or in any other way.

76. As I attested earlier, the word "stop" is the word the FBI used, and that I and my writing are to be "stopped" is clear. Later, another Laboratory agent, Marion Williams, was even more explicit in stating that both I and my writing

were to be "stopped" in the interest of the FBI. (This record was not included among those disclosed as pertaining to me. It is, however, in disclosed FBIHQ main files and copies are attached to affidavits filed in other of my FOIA lawsuits against the FBI. It has never made any effort to deny my allegations.)

77. Aside from any other copying and routing by some of the recipients, Shaneyfelt's proposal was routed to all the top FBI brass who are listed on its first page and who initialed it. They also received the results of the so-called legal research (Exhibit 3) that was performed at taxpayer expense. This so-called legal research did not include determining whether or not my writing was accurate. It merely assumed that it was not accurate, without which I could not be sued. It also concluded that my writing was libelous and that such a suit could be filed. The FBI's "legal research" does not state the FBI cannot or should not use an employee to front for it in a suit to "stop" a writer and his writing.

78. If in any of this anyone at all in the FBI, including among its top brass and its "legal research" component, had any question at all about the legality, morality, propriety, decency or ethics of this scheme, it is not indicated anywhere or in any way in any record disclosed to me or anywhere else of which I have knowledge.

79. Hoover and others agreed that the decision - on whether the FBI would use Shaneyfelt as a front in suing me to "stop" me and my writing - be left to Shaneyfelt. He, having accomplished his purposes and having presented himself as the most loyal and self-sacrificing of FBI employees, then decided against it. His alleged reasons are those of which he and the FBI were aware from the outset. (Exhibit 4).

80. There is another reason not stated. There is no way that Shaneyfelt or the Laboratory or the FBI is going to permit testing of the accuracy of my

writing about it and its investigation in open court.

81. When I learned about this scheme I called Shaneyfelt's bluff - twice. My first knowledge came when he intruded it into a deposition in a prejudicial and entirely irrelevant manner. At the end of his testimony, I told the FBI's in-house lawyer and its official counsel that if they so desired I would provide a written waiver of the statute of limitations. Later, when Shaneyfelt, who had told his FBI superiors he had "no desire to obtain a financial advantage" (in Exhibit 4), demanded \$35 an hour in addition to the prescribed and prepaid witness fees and expenses, I repeated some of what I had published earlier. I gave him a direct challenge that he file suit and a written waiver of the statute of limitations. I received no response. (Exhibit 5)

82. Those earlier schemed purposes are and have been accomplished by the FBI in my FOIA litigation^o, which it can and has stalled successfully, thereby taking up much of the time that remains to me. One of the means by which it stalls is by ignoring my FOIA requests and thus forcing unnecessary litigation. Another is not to search after I file suit, and this has, consistently, been followed by representations to the courts, sworn and unsworn, that are evasive, that misrepresent and seek to deceive, and that are just plain false.

83. In this litigation my attributions of these practices and purposes to the FBI are almost entirely ignored. It therefore is, for the most part, not denied that the FBI has deceived, misrepresented, evaded and been untruthful, including under oath. My allegations are specific and, if not factual, are subject to refutation by the FBI, which has not done so.

84. Among my sworn allegations that the FBI has not refuted are that I have already provided all the information and documentation sought under discovery, that the FBI Has not testified to any need for discovery, that it has no such need,

that it has not searched to comply with my requests, and that this unnecessary discovery has ulterior and improper purposes and is excessively burdensome if not impossible for me because of the nature of the FBI's demands, my age and my impaired health and resultant physical limitations.

85. There is, and the FBI knows there is, much pertinent information in its files that it has not searched for and that is not in the few disclosed main files. Like the tapes of the Dallas police broadcasts, concluded by the House committee to hold proof that the FBI's solution to the "crime of the century" is not correct, there is other and potentially embarrassing information in the field offices that has not been searched for and has not been provided in the main files. Another illustration of this that also involves Shaneyfelt and is one of the many reasons he will not sue me is his investigation of the curbstone struck by a missed shot during the assassination.

86. He had it dug up and taken to the Lab in Washington for testing. He did not report that this evidence had been altered, although it is obvious and is reported in a Dallas record I obtained in this litigation. The FBI Lab proceeded to test what obviously was not the impact of a bullet and palmed off this phony test as genuine on the Warren Commission and the sorrowing nation.

87. It happens that a bystander was wounded slightly as a result of this missed shot. The FBI knew this immediately and later was reminded of it when it transcribed the police broadcasts, which report it several times. When that bystander, James T. Tague, then a young man from Indiana, planned to visit his folks, he returned to Dealey Plaza to take a movie of this spot in which he became part of the nation's history. That was in May 1964. He then discovered that the scar that was visible at the time of the shooting, that was photographed the next day and was published in the Dallas papers, no longer existed. When this curbstone impact that

the FBI ignored was reported to the Dallas United States Attorney in June, an investigation was compelled and Tague was deposed by the Warren Commission staff counsel. (Shaneyfelt's later removal of the curbstone for testing is part of the forced investigation.) During this deposition, Tague was shown photographs and was asked if they were frames from his motion picture of the curbstone and that area. He was astounded. He had not told anyone, he testified, that he had such pictures and he had no idea how the Commission could know. He was not told.

88. The FBI did the investigating for the Commission. There is no disclosed record of which I know, other than in the transcript of this deposition, that makes any reference to Tague's taking or having this movie. The Dallas FBI did that investigating for the Commission. It has not provided any such record in this litigation. And, mysteriously and inexplicably, although Tague had not provided it to the FBI or the Commission, his movie disappeared from his home.

89. The areas of embarrassment for the FBI in this matter provide motive for not making any search in Dallas pertaining to this part of the investigation. The FBI, which knew that acknowledging this missed shot meant confirming that there had been a conspiracy to assassinate the President, simply consigned it to the memory hole until it had not alternative. It then conducted a phony test of the patched curbstone and presented that as authentic testing of the original missile impact, which is under the patch and has never been tested.

90. Before he appointed the Commission, President Johnson directed that the FBI make a special investigation for him. (As Director Hoover testified to the Commission and as is recorded in a number of internal FBI records disclosed to me, the FBI had no law enforcement jurisdiction and its investigation was not for law enforcement purposes. That there be a law enforcement purpose is required for claim to FOIA Exemption 7.) The FBI's report, touted as definitive and the be-all

and end-all, is contained in five bound volumes, excerpts from which I used in facsimile in my first book. The excerpts I used are the two incredibly brief and entirely inadequate references to the actual crime. The FBI did not even mention all the known shooting or all the President's known and reported wounds in its definitive investigation. In this supposedly and toutedly definitive FBI solution to the assassination, there is but a single 10-word sentence referring to the crime itself and three short sentences referring to the wounds and one of the bullets allegedly fired in the crime. Instead of investigating the crime and reporting the evidence, the FBI created a multivolume diatribe against Oswald, who was presumed by Hoover to be the lone assassin. I attach the table of contents of the text volume to reflect its content. (Exhibit 6)

91. As the table of contents reflects, there is no reference to any missed shot or to the wounding of Tague, both known and reported immediately and publicly. To reflect that there is no mention of this known missed or even any other shot, I attach as Exhibit 7 the pages of the index that would include shots and Tague's name if either had been mentioned. Neither the missed shot nor the wounding of bystander Tague is mentioned in the FBI's "solution" to this terrible crime.

92. If the Tague records required to have existed in Dallas were to be disclosed to me in this litigation, it could be the cause of great embarrassment to the FBI. If they had been disclosed before the end of my C.A. 75-226 in which the FBI was the defendant, it could have been even more seriously embarrassing to the FBI.

93. To make this and motive clear, I state two uncontroverted and incontrovertible facts basic in this assassination and its investigation: 1) nobody, not the best shots available to the Commission, not the best shots in the FBI and no private sharpshooters, has ever been able to duplicate the shooting

attributed to Oswald and that rifle, which required that, in all official versions, three shots be fired with accuracy in about 5 seconds; and 2) that the FBI accounted for all three shots without regard to and only by completely ignoring this missed or Tague-wounding shot.

94. All of the foregoing pertaining to the missed shot and Tague are stated in great detail in C.A. 75-226 with complete documentation that includes FBI and Commission records and photographs, the deposition transcript and an affidavit provided by Tague. The FBI merely ignored all of this. However, it has all the information I have and all the pertinent documentation as a result of that litigation, so it knows that there is no other information or documentation I possess, if as it has not done it testified to any need for such information in this litigation.

95. There are a large number of such matters that can be embarrassing to the FBI and that can account for its refusals to make searches responsive to my actual requests. This also can account for its arbitrary, capricious and wrongful effort to limit me to the few main files in which the FBI was careful not to include such information.

96. The above-referred-to Shaneyfelt allegations that my work is not accurate and all other such FBI allegations and defamations of which I am aware, which means all it has disclosed to me, are not correct and sometimes are just made up - fabricated. My alleged inaccuracy and alleged background are two of the reasons stated in FBI records - and I mean this literally - for the supposedly legal determination that it did not have to respond to my FOIA requests in its interpretation of FOIA. The decision not to respond to my requests was approved by Hoover. One of these creations was required by the dominating FBI fiction that it and its director are always right, no matter how wrong they are. How the FBI "proves"

that it and Director Hoover were correct when, without possibility of doubt, they were entirely and irrefutably wrong and how, when I am beyond any question completely accurate, it creates records that state that I was completely wrong is illustrated in Exhibit 8, another record from the FBI's main file on my alleged subversion, where it is the record and indexed copy of this concoction, Serial 9. (Exhibit 8)

97. One of the perplexing and unaddressed questions about the assassination investigation is why the alleged assassin did not fire a shot the only time he had a clear and unobstructed view from his so-called sniper's nest in that sixth-floor window. That one time was when the motorcade was going toward him, north on Houston Street, which is the eastern border of Dealey Plaza. Hoover testified to the Commission that "some people have raised the question: Why didn't he shoot the President as the car came toward the storehouse where he was working?" Hoover's explanation is that trees then obstructed Oswald's view. In my first book I quoted this testimony and published a Secret Service photograph taken from the so-called Oswald sniper's nest to show that there is not a single tree on Houston Street. (Exhibit 9) The fact is that when the motorcade was on Houston Street is the only stime there were no trees between that window and it.

98. The FBI's "proof" that I was wrong when I was right and that Hoover was right when he was wrong, that I was "completely off base," consisted of telling Hoover that because after the motorcade left Houston Street, after it "turned left off of Houston Street," there were trees. (Emphasis added)

99. This record also reflects the fact that the FBI monitored my public appearances. I have alleged, without refutation from the FBI, that as part of its plan to "stop" me it also interfered in my life and tried to damage me and my books. The FBI and its affiant FOIA Supervisor Phillips do not have to make any searches

to determine the truth. They also do not need to know what is in the records the FBI still withholds. Enough to show this is in what the FBI disclosed to me. This also bears on FBI motive for refusing to search for and process its information pertaining to "critics." It engaged in improprieties against us.

100. Another FBI record I cannot now locate but gave the FBI in other litigation states that WNEW-TV, in New York City, which had invited me to be a guest on a talk show, had asked the New York FBI to provide opposition and to refute my first book and whatever I might say. The New York FBI declined to do this but offered instead to provide information that others might use for that purpose. As another FBI report about this (Exhibit 10) states, the FBI "furnished all public source data and material which refuted criticism placed on the FBI or the Warren Commission investigation of the assassination."

101. As the FBI itself states in Exhibit 10, I was not unfair to it. As no FBI record provided to me even indicates, by this effort to ruin me and my book, which failed miserably because I knew the facts and was prepared to refute its propaganda, the FBI actually made an overnight success and best seller of it. Even though the FBI's "data and material which refuted criticism" was in the hands of four erudite lawyers planted in the audience.

102. The copy I use as Exhibit 10 is the non-record copy from the FBI's file on my supposed "subversion." The withholdings are not justified. The name, quite obviously, was of a public figure who was known to me; and when the FBI disclosed the record copy, in this instance filed correctly in its main assassination file, the name of the producer who invited me to be on that show, Paul Noble, is not withheld.

103. While not all FBI intrusions into my life and work were as helpful to me, and there is no reason to believe that helpfulness to me was within any

official purpose, this one was quite helpful. When that show was aired, I could not get copies of my first book to retailers and wholesalers servicing the area covered by the TV station fast enough to meet the immediate demand and, thanks to the FBI, a reprint was required immediately. (Some stores sold as many as 300 copies a day.)

104. An FBI symbol informer tried to ruin me and my second book on the opposite coast, when I appeared on a talk show on KCBS, San Francisco. He tried to do this by red-baiting me in the orthodox FBI manner. It sold every available copy of my books in the area before sundown. It also provided a standing-room-only audience when I spoke in Golden Gate Park the next night. How and why this FBI informer who sought to ruin me could or would know about alleged events in my life on the opposite coast and when he was an infant is not apparent, but his "information" also is in disclosed FBI files. (All I had to do to face my faceless and unidentified FBI accuser down was not to dodge and refute his allegations after keeping the station from cutting him off because of the viciousness of what he said.) That this was done to me by a symbol FBI informer was disclosed to me by the San Francisco FBI, I believe because those processing its records a decade and a half later knew nothing at all about what had transpired, the actual event and its helpfulness to me.

105. This was disclosed to me along with the filled-in printed FBI form for contacts with informers, the form I have stated without refutation the Dallas FBI was required to fill in for each and every contact it had with Jack Ruby. The FBI admits that Ruby was its PCI informer in Dallas but it has not provided that file (a 137 file) or these filled-in informer contact forms for each contact with him.

106. Exhibit 10 also reflects the inconsistencies in FBI filing to which

I have attested. In New York the record is classified "66. Administrative Matters" called "admats." At FBIHQ it is classified "62. Miscellaneous - including Administrative Inquiry." and is in the main assassination file. A search in New York directed to assassination or Commission records thus could avoid including this "admats" record which is in one of the FBI's catch-all classifications.

107. This record also reflects the accuracy of my statement that the FBI's information on and about "critics" was routed to its "Crime Records" division, which actually handled the FBI's propaganda and lobbying. It is obvious that the subject matter of this record is not related to "crime records" or to crime or to records pertaining to any criminal activities.

108. Cartha DeLoach, to whom the Shaneyfelt scheme to "stop" me also was routed, then headed "Crime Records" and the FBI's propaganda and lobbying activities. It is his office that leaked the substance of the FBI's five-volume report five days before it reached the Warren Commission, after which the FBI pretended to mount a diligent and vigilant search for the allegedly unknown leaker.

109. Another of my allegations and attributions of motive that was not responded to with any evidence but was the subject of FBI's counsel's sneers is my allegation that the FBI told the President, the attorneys general and other Department lawyers, and many others, what was not true about me but what was very hurtful at the time and, as new lawyers have access to it, I believe has been since. This is that I (and in another version also my wife) celebrate the Russian revolution annually. This is a complete fabrication and the FBI knew it was not true from other records it disclosed to me. This is part of the defamation the FBI sent to the White House when President Johnson was interested in criticism of the official solution to the assassination. The covering letter of November 8,

1966, was to Honorable Marvin Watson, Special Assistant to the President. The alleged summary of the FBI's information on me was attached, and this summary includes:

"In 1956 it was alleged that Weisberg held an annual celebration of the Russian Revolution. This celebration involved a picnic at his residence and was attended by 25 to 30 unknown people."

110. The event, which did not coincide with the Russian Revolution in time and had no connection of any kind with it, was a religious gathering at the farm I then owned. It was arranged for by the Washington rabbi of the Jewish Welfare Board. It was after the fall Jewish high holidays. It was for Washington area service personnel and their families, particularly their children. All our farm stock was tame, We had eggs hatching weekly, always had baby chicks and baby waterfowl for the kids, they gathered eggs, played with and rode on animals, and did other things children do not often have an opportunity to do and enjoy. What I then did was so popular and so attractive that the University of Maryland, which was aware of it, adopted it under the name "Old McDonald's Farm."

111. This totally fabricated defamation of me and alleged linking of me and thus criticism of the official solution to the assassination with Russia was enough to end that White House interest which, if responded to honestly by the FBI, could have caused it considerable embarrassment.

112. DeLoach handled the matter and the delivery to the White House.

113. It is not only "critics" like me that the FBI harpooned to the White House and thereby directed interest away from itself. It also made such secret attacks on the CIA, particularly when Jim Garrison was making similar accusations in New Orleans. Another DeLoach memo, this one intended for Hoover, dated 4/4/67 and in the FBIHQ main assassination file, states that the White House was giving some credence to what Garrison was alleging. DeLoach states (pages 3 and 4):

in this connection, Marvin Watson called me late last night and stated that the President had told him in an off moment he was now convinced that there was a plot in connection with the assassination. Watson stated the President felt that the CIA had something to do with this plot. Watson requested any further information we could furnish in this connection ... would be most appreciated by him and the President. I reminded Watson that the Director had sent over to the White House some weeks back all the information in our possession in connection with the CIA's attempts to use

the mafia to assassinate Castro. (This is what was sometimes alleged to have triggered a kickback assassination of President Kennedy.) What the FBI did to make it appear that the CIA was involved in the assassination was delivered by DeLoach to Mildred Steagall at the White House and it did make it appear that the CIA was responsible for the assassination of President Kennedy.

114. Some of these FBI records pertaining to me confirm my allegations that the FBI refuses to make proper searches to comply with those of my requests it does not entirely ignore and that it forces and then stonewalls litigation, leaving no alternative other than abandoning information requests. These FBI records also reflect an attitude toward the FOIA that is contrary to its intent and purposes with which I am familiar going back to that provision of the Administrative Practices Act prior to the 1966 enactment. Some of these FBI records reminded me of copies of Department records of which I did make separate copies for and did use in other litigation. The FBI has those copies. They show that even when the attorney general and the Department's Office of Legal Counsel (OLC) wanted compliance with a request, the FBI resisted and refused, thus causing litigation that lasted for more than a decade. That case went to the appeals court five times before it stated that it was satisfied that the FBI had finally made an adequate search. And, as the Department forecast, the litigation had consequences the Department feared and did not desire. It led to the 1974 amending of the investigatory files exemption. I believe that the FBI was aware of this and regarded it

as potentially less adverse to FBI interest than disclosure of the requested information could have been.

115. My first request of the FBI for disclosure of the results of its nonsecret spectrographic examinations in the JFK assassination investigation was made in my letter of May 23, 1966. The FBI bureaucracy decided and Director Hoover agreed that it was not required to respond because it did not like me. I received no response.

116. About a year later, in an appearance on "Face the Nation," Attorney General Clark, apparently misinformed, spoke inaccurately about the availability of all nonexempt information related to the JFK assassination investigation. I wrote him explaining that he was misinformed and I illustrated this with the example of the still withheld information pertaining to the spectrographic examinations. The Archives informed the Department that the FBI had not provided the results to the Commission, that they were not in the Commission's files, and that I was not the only requester of that withheld information. The Department, particularly OLC and the Attorney General's office, desired that this information be disclosed, even though the clerks apparently failed to find my request. However, the FBI was adamant and refused. Time passed. I desired the information and finally, four years after my initial and ignored request, I filed the then required DJ-118 form the attached copy of which was provided to me by the FBI. (Exhibit 11)

117. This FBI record also reflects its success in misleading the courts and in misrepresenting my requests. It also is pertinent to this Court's recent citation of the last appeals court decision in that case in which it is represented that my inclusion of the President's shirt collar and tie represent an enlargement of my request. This request, Exhibit 11, is quite specific in stating that it includes all "objects" allegedly struck by bullets or fragments of bullets,

"including garments and part of vehicle and curbstone." I did not and could not have enlarged an all-inclusive request.

118. In replying to the Department about this request (Exhibit 12), the FBI began by seeking to incite prejudice against me in an inaccurate and incomplete reference to an action under the McCarran Rider later found to be unconstitutional. (Among its omissions is the subsequent public apology to me over this action. My then counsel included a former federal commissioner, a former federal appeals court judge and a former subcabinet officer who was later a Supreme Court Justice.) Along with these personal defamations used regularly by the FBI as a substitute for fact,^{with} which it cannot refute my accurate writing, it described my writing as "vitriolic and diabolical." These characterizations appear to have been much favored by Director Hoover, who employed them in his handwritten notes. His underlings in the FBI repeated them regularly whenever they had occasion to refer to my writing. As indicated above and as is reflected in Exhibits 8 and 9, the FBI has not been able to find factual error in my writing, as it has not been able to confront my affidavits and appeals factually. That its political diatribes and false characterizations were also designed to intimidate all those, especially those in the Department, who received copies is reflected by the fact that not one ever once raised any questions of fact in the countless records I have read. These include the Department's JFK assassination file. (I do not suggest that this kind of treatment was reserved exclusively for me. It is, from my extensive study of FBI records, standard practice for the FBI when it is criticized or even when it suspects criticism. Even the general counsel of the Defense Department, who had the same questions I raised about the FBI's five-volume report to President Johnson, received similar treatment in disclosed FBI records, as did several attorneys general and a United States attorney.)

119. This record, too, is from the FBI's "subversive" file on me in which it is the officially indexed or recorded copy, as Serial 17. Again bearing on how the FBI files and how it can ignore records in searching, this record is captioned as my FOIA request but is indexed not as that but as "subversive."

120. The FBI took the position that because it had already disclosed what it wanted to disclose it had disclosed all it was required to disclose. (Page 2) All the FBI had disclosed to the Commission is that it regarded the specimens tested as "similar." This means nothing at all, except that the tests did not disclose what is required by the FBI's solution to the crime, identical composition. Later, when I deposed the FBI's expert, he actually testified that the FBI never states the results of such tests as "similar" even though this was the very word he used in his Commission testimony which the FBI claimed was the only disclosure required of it. In this present litigation I obtained some previously withheld pages of the Laboratory worksheets, including his notes. They reflect this FBI expert's interpretation of "similar." He stated that the results of the spectrographic examination of the curbstone showed that the deposit tested could have been caused by an automobile wheel weight. That is hardly the same as or even "similar" to a bullet or fragment of bullet.

121. How the FBI prevailed in the first litigation for the spectrographic examination information without even making any search is paralleled in this instant cause. In both there are sworn and unsworn untruths. Although the attorney general and other high officials of the Justice Department had actually wanted disclosure of the information I requested, the FBI's counsel told that court that the attorney general had determined that disclosure would not be in the "national interest." Aside from being untrue, this was not a provision of the Act and Congress had decided that it could no longer be used as an excuse to withhold. Along with this,

The FBI's response is absolutely false: "Comment: No documents relating to David William Ferrie were withheld from the Warren Commission."

the second Lab agent who had stated that I and my writing had to be "stopped," Marion Williams, swore that disclosing the results of these nonsecret tests would be ruinous to the FBI and would lead to disclosure of the identifications of its confidential informers and be a "national security" holocaust. This was transparently false, was never argued again, and when, after years of litigation, there was disclosure, none of the forecast disasters were visited upon the FBI or the country.

122. Related directly to continued withholdings in this instant cause and my allegations of FBI untruthfulness in the alleged searches for David Ferrie records and the FBI's withholding of them is its reference to Ferrie records on pages 3 and 4 of Exhibit 12. As the FBI itself interpreted my Ferrie request of more than a decade ago, it includes all documents "withheld from the Warren Commission." This was knowingly false because in at least FBIHQ, New Orleans and Miami there were Ferrie records of which I have personal knowledge that the FBI withheld from everyone. It continues to withhold them from me even after New Orleans SA Clifford Anderson belatedly admitted finding some, which also refer to still others. This untruthful FBI claim to having given the Commission all of its Ferrie records was long before the time Anderson conjectures some were destroyed. I have all the FBI Ferrie records in the Commission's files and all those of the Commission's copies originally withheld by the Department's order (page 3) and they do not include the records to which I have referred - without refutation - throughout this instant cause.

123. Phony as it is, the New Orleans Ferrie search slip in this instant cause in itself gives the lie to the FBI's statements to the Department that it withheld no Ferrie records. That slip lists records the FBI did not provide to the Commission.

124. There is no doubt that long before I filed this litigation I requested and the FBI knew I requested all its Ferrie information, including what it allegedly later destroyed. There also is no doubt at all that the FBI lied, either without making a search or after making the search that obviously disclosed the existence of pertinent records it had withheld from the Commission and from me.

125. In this litigation the FBI has taken the position that if information I requested in it also is included within other requests, only the other requests are pertinent. With regard to the still withheld Ferrie information, my first request was in 1967, I made another request that the FBI clearly understood correctly in 1970 (Exhibit 12), that same request is included in this litigation, and as of today all the Ferrie records still have not been processed. With regard to some of this withheld Ferrie information, in this litigation I informed the FBI where it is. Yet when Anderson provided a declaration he still did not provide the Ferrie information he did locate after I identified it and at the same time pretended to compliance.

126. Clearly, the FBI is determined not to comply. Its record is one of repeated untruthfulness. It ~~is~~ not envisioned in the Act, as I understand its language and intent, that in 1983 I am required to repeat my prior requests of more than a decade ago that still have not been complied with or that I must file a separate lawsuit for that requested information which also is included within this 1978 case. The FBI seeks to place an enormous burden on requesters and the courts this way and, within my extensive experience, succeeds.

127. This FBI's FOIA attitude that if it disclosed what it wanted to disclose and not what was requested it had complied with the Act also is reflected on pages 4 and 5. This refers to the deliberately unclear and deliberately corrupted pictures of the President's shirt collar and tie that the FBI provided

to the Commission. The FBI held that because it had provided unclear and unfaithful copies to the Commission the Act did not require it to provide copies of its clear and uncorrupted pictures of this basic evidence to me. The significance of the FBI's position and its actual reasons for refusing me a clear copy of these photographs - which it had not provided to the Commission - became apparent on examination of them and when I deposed an FBI Lab agent in another case in which they are exhibits. In order to have it believed that an exiting bullet had gone through the knot of the President's tie, when it had not, the FBI undid the knot and photographed it reconstituted so that a hole appeared to be in the center of the knot. With regard to the shirt collar, it is apparent that a clear photograph depicts the fact that the two slits in it, allegedly made by an exiting bullet in the FBI's solution, in fact do not coincide, are not even the same length and could not have been caused by a bullet. (In fact, they were caused by a scalpel during emergency procedures in the Dallas hospital, as was the nick, not a hole, that actually was at the upper left extreme of the knot of the tie as worn.) The FBI agent testified that because he had had the same question, whether those slits could have been caused by a bullet, he had directed an additional study be made by a Laboratory fibers expert. It is with regard to the results of this test, still withheld by the FBI, that the appeals court was misled concerning the scope of my request, as indicated above in connection with my DJ-118 request that includes the "garments," Exhibit 11.

128. The foregoing Paragraphs represent the kind of information that is embarrassing to the FBI when I compel its disclosure. These Paragraphs also illustrate that the FBI can be embarrassed by exposure of the flaws and errors in its investigation of this most serious and most subversive of crimes. In addition, they illustrate how the FBI deceived and misled President Johnson, for whom its

investigation was made, and the Commission, for which the FBI provided most investigatory and laboratory services.

129. I believe that is because the FBI is well aware of the truthfulness of my allegations about its campaign of noncompliance and to "stop" me and my writing and of the contents of its records like those I attach and refer to herein that it has not made any effort to refute my allegations. I believe that this also is why instead FBI counsel has made sneering and deprecating references to them and to my alleged imagining of these things instead of confronting my allegations. These records, some of those provided in incomplete response to my request for the FBI's records on and about me, reflect its tricky filing, its stonewalling and noncompliance policy, its policy of deceit, misrepresentation, untruth and slander in avoiding searches and compliance and the means by which it negates the Act and creates and inflates entirely unnecessary cost statistics by means of which it seeks limitation of the right of the people to know under the Act.

130. In seeking first discovery and now dismissal in this case, in contradiction of all of the entirely unrefuted evidence I have produced and without even pretending to produce any evidence of its own, the FBI continues to seek immunity for what it continues to withhold, for not having made the required searches, and for perpetuated withholding of what is improperly withheld from the disclosed records. When I offered to dismiss because of my seriously impaired health, it refused and instead insisted upon a costly and impossible Vaughn index. Some of its withholdings cannot be justified. Some of those that Phillips swears are necessary, in another of my cases the FBI swore to the opposite, that they are in violation of its policies and practices in such historical cases. This is literally true with regard to the withholding of the names of special agents in

such historical cases. This is literally true with regard to the withholding of the names of special agents in the last half of the records processed in this case, after they were not withheld from the first half. At the very time Phillips swore to the need to withhold (what had already been disclosed in any event) the FBI swore in C.A. 75-1996 that its policy had changed as of 1977 and thereafter it would not withhold such names. Meanwhile, in this litigation it had already disclosed much more than the names of these Dallas agents. It provided me with a list of them, their home addresses and phone numbers, and thereafter asserted a "privacy" claim to withhold merely the names - from records that could be embarrassing to the FBI if the names of the investigators were not withheld. (Exhibit 13)

131. Based on my FOIA experiences with the FBI and its public record, I believe that if it succeeds in having this case dismissed it will thereafter refuse to disclose any of the information it withholds and will claim, although it has not and cannot justify its withholdings, that the matter has already been decided by this Court - without the Vaughn index not made, which could not justify these withholdings if it were made.

132. Based on this experience and knowledge, I believe also that the FBI will claim immunity for the relevant records it has not even searched for by claiming that they are included within my litigated requests. It has done this in the past.

133. It thus seeks the sanction of this Court for perpetual withholding of all its undisclosed information relating to the assassination of the President and its investigation from any and all other requesters.

134. The only reason I have persisted in this litigation after my arterial surgery and its serious and severely limiting consequences is to prevent the FBI's

misuse of me and this litigation for the Orwellian purpose of suppressing important information while professing "exhaustive" efforts to disclose all. I know of no other reason for the FBI to have rejected out-of-hand my offer to end this litigation without prejudice to the rights of others.

135. I know of no reason other than intended noncompliance for the FBI not to have made the preliminary and final searches required of it by its own regulations or for its failure to abide by other provisions of its regulations or for its failure to respond to my proper invocation of its regulations, either when I filed my requests in 1977 or at any time since.

136. I cannot conceive that compliance with my requests would not have been much less costly and time-consuming than forcing litigation and then prolonging it by stonewalling that is contrived by endless departures from truth, as I have documented in detail throughout this long litigation. Moreover, compliance with my requests would have eliminated forever what now will be inevitable, additional requests for what remains withheld and greater costs in meeting those requests or still greater costs in litigating to resist disclosure.

137. If the FBI had really had any problem with my requests, if it had abided by its own regulations instead of violating them deliberately - and its violation was deliberate because I invoked its regulations in my requests - any such problems would have been eliminated easily. I believe the FOIA exemptions are proper and necessary. This is not to say that I agree with the FBI's interpretations and unilateral revisions of them, which I have opposed. From personal experience I know the importance of protecting genuinely confidential sources as from the FBI's deliberate abuse of my rights to privacy I am made more aware of the genuine privacy rights of others. My record with the FBI in FOIA litigation, including in this litigation, bears me out.

138. In this litigation I declined duplicates of the FBI's tapes of its electronic surveillances of Marina Oswald as well as transcripts of them. In other litigation I reported the disclosure of the identities of FBI symbol informers, even after it became apparent that such disclosures could not all have been accidental and that some were for the FBI's own ulterior purposes. (The FBI never responded, did not replace the records with excised copies to protect its symbol informers and never asked me to return the copies identifying them. One identified informer was in the mafia.)

139. With regard to privacy and rights under the Privacy Act, when it became apparent that the FBI was going to disclose defamatory JFK assassination records and it had not complied with my request (and my appeals also were ignored), my counsel wrote and telegraphed first the FBI Director and then the Attorney General asking that I be enabled to exercise my Privacy Act rights. Neither he nor I received any response from the Director or the Attorney General and the truly malevolent mendacities with which it had larded its records were not only disclosed and converted into a perpetual defamation - the FBI called them to the attention of the press, some of whom consulted me about them the day of the disclosure of those many thousands of pages of FBIHQ general releases.

140. From the outset, from before the first calendar call in these cases, as I have attested without even unsworn contradiction, it was apparent that the FBI intended not to comply with my requests and would be compelled to resort to misrepresentation, deception, evasion and untruth. It thus left me no real alternative to documenting these abuses. I have done that with regard to each and every filing. Because what the FBI has done in this litigation is as I describe it, it has not refuted me and on only a few occasions has made any effort to do so. When it did, nothing was too demeaning, as for example Phillips' persistence in

insisting that the FBI provided me with "photostatic" copies when I did not receive a single photostat from it, or his subsequent insistence that all dictionary definitions are wrong and his fabrication is correct with regard to the kinds of copies provided and with regard to ticklers.

141. Aside from the FBI's pursuit of its long-standing vendetta against me and my work, what it has accomplished by more than five years of totally unnecessary litigation is using the Act that requires disclosure as an Act for suppression of public information; and having done that, it now seeks sanctions against me in an effort to procure a judicial license to continue to suppress now and in the future and for Shylockian extortion. Initially FBI counsel tried to intimidate me through my counsel (and perhaps him also) by threatening to have me thrown in jail for contempt. He then also found it appropriate to scoff at the permanent disabilities and circulatory illness of a septuagenarian, as my counsel has stated. When I was not intimidated and when it was without question that I was not going to be intimidated, he backed off on contempt and attempted jailing and sought dismissal as a sanction - in FOIA litigation in which, after more than five years, the initial searches to comply with my requests still are not made and attested to and in which none of the withholdings has been justified. In its quest for sanctions, which is no more than a cover for its newfangled Cointelproing of the Act and of me and for its deliberate suppression of what can be embarrassing to it, the FBI leaves this factual record:

- 1) it has presented no testimony to the need for discovery of any kind;
- 2) it has not refuted my attestations that it has no need for any discovery;
- 3) it has not denied that voluntarily, before it sought discovery, in my ignored affidavits and my also ignored appeals I had already provided it with all the information and documentation I have that it pretends to seek by discovery;
- 4) It has not denied that, until the untruthful allegation in the Motion to Dismiss, it did not even claim to need discovery;

5) it has not denied that it still has not made searches to comply with my requests, as it has not and I attested it has not;

6) it has not denied that, if unintentionally, Phillips disclosed that it did not make searches to comply with my request and instead and without searches provided only records of its own choice;

7) it has not denied that even after I informed it that it had not made searches to comply with my requests it still refuses to make those searches;

8) it has not denied that this unnecessary if not also inappropriate discovery is extraordinarily burdensome, particularly because of my advanced age and seriously impaired health and consequent physical and medical limitations;

9) it has not denied that it still has not searched for and processed pertinent records I have identified in this litigation;

10) it has not denied that it knowingly and deliberately misrepresented the instructions to it by the Department pertaining to "critics" and that it did not file topically and could not search or retrieve topically;

11) it has not denied that even after I informed it of this it still refuses to make the searches directed by the Department;

12) it does not deny that it has not yet made any searches for such clearly pertinent records as ticklers - not even as described in Phillips' rewriting of the dictionaries I quoted - or the tapes of the Dallas police assassination broadcasts or for many pertinent individual and organizational records I have identified, including among others those on individual "critics" and their organizations and on David Ferrie, which I identified by their correct file numbers;

13) it does not deny that it has pertinent information filed outside the few main files to which it sought to limit me in addition to the relatively few pages it was forced to process;

14) it does not deny that it has not yet made any ELSUR searches and that it still has not made Dallas and New Orleans searches to comply with the instructions of the Court with regard to them;

15) it does not deny that the records it identified and withheld and withholds as "irrelevant" are not irrelevant but are clearly within my requests;

16) it does not deny that it is required to have and has not searched for other copies or versions of allegedly destroyed records;

17) it does not deny that it has and has not searched special repositories holding pertinent information, some of which I identified correctly; and

18) it has not denied my allegation that its discovery demands were not made in good faith and are harassment.

142. Whether or not there is a judicial determination of the fact, as I have alleged, that FOIA places the burden of proof on the government, the FBI has not even bothered to deny this.

143. As I have attested throughout this litigation, the FBI has not even claimed to have met its burden of proof of showing that it made searches responsive

to my actual requests and justified its withholdings. (The Act states that "the burden is on the agency to sustain its action.")

144. If the FBI ~~really~~ believed that sanctions against me are appropriate, it and its counsel have all the many affidavits I have filed in direct contradiction of their own, and the government has the opportunity, if not indeed the responsibility, of seeking to punish perjury if I swore falsely.

145. I have the subject-matter expertise of which the FBI informed another court, stating that I knew more about the assassination and its investigations than anyone in the FBI; and I have the FOIA experiences with the FBI to which I have attested in this and in other litigation. And there is the record I have made, subject to if not challenging refutation throughout this litigation. I therefore have no reason to believe that the FBI or the Department will seek any judicial determination of whether the FBI or I swore falsely, as I have no reason to believe that the FBI's sworn infidelities to fact were not known to be unfaithful to fact when uttered. The FBI and the Department know very well that I have been truthful and accurate.

146. I know of no provision of FOIA for sanctions against requesters/plaintiffs, but I do know of provisions for sanctions against "agency personnel" who "acted arbitrarily and capriciously with respect to withholding" (4(F)) and for "noncompliance with the order of the Court" (4(G)), both of which I believe are pertinent in this litigation.

147. In this affidavit (on which I have not been able to work continuously and will not have time to reorganize) I enlarge upon some of the allegations I made pertaining to searches not made and for which no assistance from is either necessary or testified to in any manner by any agency employee; to discovery and whether or not it is necessary or appropriate; and to the FBI's ulterior motives

and I believe entirely improper actions in this and in other of my FOIA requests and lawsuits against it to show a pattern. While the additional records I attach hereto are not the result of a special search, which is impossible for me, and are not by any means complete, they make it clear, I believe, that the sneering deprecations by FBI counsel in substitution for any evidence from it are inappropriate and unfaithful to fact as the FBI very well knows. I have also addressed the Motion to Dismiss with uncontradicted evidence and have pointed out that (a) both it and the FBI's representation in requesting discovery cannot both be truthful (and that neither is) and (b) that it does not address the uncontradicted factual evidence in my earlier affidavits.

148. When I was able to appear before them, one of the questions asked most frequently by collegiate audiences is, if the government has nothing to hide, why does it hide so much? I believe the question is self-answering and that it also is appropriate in evaluating the demands for discovery, made without any supporting evidence and in the face of all the evidence, and the Motion to Dismiss, guised as a sanction against me, when the FBI has not yet made searches in response to my requests. If the FBI has nothing to hide in its ticklers (which is where I found that it has me filed under bank robberies and yet did not produce those records in response to a number of requests); has nothing to hide in its tapes of the Dallas police assassination broadcasts and related records; has nothing to hide in its ELSUR records and indices; has nothing to hide in its records pertaining to its investigation of this terrible crime and the persons and organizations involved therein - if the FBI has nothing to hide, why does it hide so much and steadfastly refuse even to search? The question is rhetorical. The FBI has much to hide and therefore does not search and therefore seeks sanctions against me for my accurate exposures and my persistence in seeking the information it has

suppressed for almost two decades.

149. The vigorous, extensive and less than honest FBI campaign against me that is only partially indicated in this affidavit and its attachments has successfully obfuscated the nature of my work and study. It is not the pursuit of a real-life mystery, of a whodunit. I have made and continue to make a study of the functioning of our basic institutions in time of great stress and thereafter. In this litigation I believe more than in any other case the government has written its own history, in addition to requiring me to assist it in doing so. Regardless of the outcome of this litigation and the immediate government objectives in seeking the sanction of dismissal and earlier in its discovery diversion, this history is written. As a subject-matter expert I am satisfied that no historian could record this history as the FBI has forced it onto paper in permanent court records; and if there is hardly any other endeavors to which I would not have preferred devoting that part of the time that still remains to me which has been consumed in this litigation, there is no outcome that can make it a waste of time in my study or in history. History, an ancient Roman philosopher once said, writes truth. This litigation, regardless of its outcome, now is part of the history of the functioning of our basic institutions (which include the Department, the FBI and the courts) in that time of great stress, when our entire system of self-government was nullified by the crime of assassination, and thereafter, continuing as long as anyone seeks the government's public information and as long as disclosure of it is resisted.

150. After I completed the draft of this affidavit and my wife was retyping it, I found a document consisting of a series of four 1970 FBI records I had copied for use in this affidavit that had gotten mixed in with papers on my desk relating to another matter on which I had been working. (Attached as Exhibit 14) This

document, also from FBIHQ's file on my alleged subversion, is captioned "FREEDOM OF INFORMATION ACT." No duplicate filing in any JFK assassination file is indicated. The FBI's response to the DAG pertaining to my FOIA requests relates to Exhibit 12 above and to other of my requests to which I refer above. As can be seen, the FBI's answer to everything consisted in defaming me, for all the world as though that is in any way related to an FOIA request.

151. (These reiterated FBI allegations of disloyalty against me also reflect its dishonesty, the dishonesty of its searches and its retrieval from its own files and its intent to defame by selective disclosures in which it discloses unfair defamations while withholding exculpations. Prior to the time of the State Department's public apology and retraction of its action against me, one of my then counsel discussed the apparent unfairness with Mrs. Ogden Reid, then owner of the New York Herald Tribune. As a result its chief Washington correspondent, Pulitzer Prizewinner Bert Andrews, was assigned to report the entire matter. He did, at length, and his reporting was published extensively in other papers that are clipped and filed by the FBI. This includes the Washington Post, where it was front-paged. Andrews' investigation included an interview with J. Edgar Hoover. He told Andrews that there was no case at all and that under the same conditions he would not have done anything to FBI employees. This information has not been disclosed by the FBI, I believe because if it had it would not have been able to poison the minds of those many who received the FBI's dishonest and intentionally prejudicial accounts. This also represents incomplete searches and/or improper withholding. Likewise, the FBI has continued to withhold J. Edgar Hoover's letter praising some of my World War II period investigative reporting, the patriotism and loyalty of which are beyond question, as is its public good.)

152. My request of December 2, 1970, repeats ignored requests I made two

years earlier, both accompanied by checks. All parts of this request pertain to New Orleans and/or Dallas records. I have never heard anything from FBIHQ or from either office, including when I raised questions pertaining to these withholdings in this litigation, in which all parts of these requests are included. This also identifies the still withheld identification pictures used by the FBI in New Orleans when it briefly looked for a known but unidentified Oswald associate. (There may have been more than one such Oswald associate.) After receiving this request, the DAG referred it to the FBI. It responded twice, first telling him that "extensive research" would be required (a not inconsiderable exaggeration because only a phone call was required) and then misleading and misrepresenting to him. This memo also reflects the FBI's concept of vigorous investigation, how in its proud boast, it "left no stone unturned." It did not give a motion picture of Oswald being arrested - with three others not mentioned - and showing other persons nearby, a motion picture described by four witnesses as including an unidentified Oswald associate, to the Presidential Commission for which it was investigating, "because the arrest had been completely documented, and other film was available regarding the incidents leading up to the arrest of Oswald." Without non sequiturs the FBI would be crippled.

153. All that the FBI states, even if true, is not relevant to its or the Commission's examination of a motion picture for its evidence, which ranges from identification of Oswald's mysterious associate or associates to the dependability of the witnesses who testified inconsistently to the arrests and what led to them. Moreover, I do not recall seeing any of these earlier photographs to which the FBI refers. I am confident that they do not exist in Warren Commission files and have not been provided to me in this litigation, although there is reason to believe that the New Orleans FBI had such pictures and suppressed them. The first paragraph

of my request refers to this possibility.

154. The FBI's "extensive research" referred to is not unlike its "exhaustive searches" in this litigation - almost nonexistent. All that "research" told the DAG is only what I had already told him, that the FBI had returned the two amateur films. The FBI set out to deceive and mislead the DAG and it succeeded; it did not let him know that the FBI made and had copies of the films, which I had reported, and it deceived him into believing that it had returned those films without making copies.

155. After the FBI disclosed the Doyle film under a request more than a decade after mine, I complained and eventually received a copy. It still has not provided a copy of the John Martin (Minneapolis) movie or the others. It simply did not respond. In this litigation they still remain withheld.

156. As my letter states, I obtained copies of some of the films from the owners, all of whom claimed that the FBI had removed parts of their footage. What makes this particularly provocative about the Martin film is what happened when I obtained it from him. I had addressed a large noontime audience of University of Minnesota students. Several older men, obviously nonstudents and not of the press, were in the audience with a hidden tape-recorder that showed when they changed tapes. When the meeting broke up, they followed me and a smaller group of students who assembled elsewhere. Martin came up to me and offered me his film. He, some other students and I went to his home, he got his film, and we then went to a private university projection room where we examined it. However, instead of taking it with me, as Martin had offered, I arranged for one of the students to have copies made locally, to mail a copy to me and to return his copy to Martin. Nobody outside this small group knew that I did not have his film.

157. When I left Minneapolis that evening on a plane that originated there,

I saw my luggage go down the correct chute. On leaving the plane at its first stop, Kansas City, I was the only passenger whose luggage was missing. When it finally reached me several days later, the air line representative told me he did not believe the explanation given to him but he could offer no other explanation. My clothes were a shambles and every scrap of paper, my receipts and even papers of matches, had been removed from my Valapak. My brand-new portable typewriter was virtually demolished, without leaving a scratch on the case, and an also new tape recorder, without a visible scratch, had been fixed so it would not record.

158. Obviously, if the FBI altered Martin's film, that is significant information. Because Martin charges that it did, if it did not, that also is significant information. But the FBI, typically totally nonresponsive, has not provided a copy, including in this litigation.

159. In its letter to the DAG the FBI acknowledged that it withheld any and all information about Martin and his film from the Commission. This perhaps represents some FBI concept of investigating the assassination of a President and his allegedly lone assassin who the FBI had been told by many witnesses was not alone. And although my request states explicitly that I had a copy of Martin's film, the FBI's nonresponse to the DAG and its revision of FOIA is that I get a copy from Martin.

160. The James Powell/Army Intelligence picture referred to was not provided to me by the FBI until a decade or more later, long after it was provided to a later requester who then published it. When I complained to the FBI, it did provide a copy, but nothing else, no copy of any records or other pictures, and no reference to any search for them or their existence or nonexistence. Moreover, this FBI report to the DAG underinforms him to the point of deceiving him. It fails to mention the fact that Army Intelligence Agent Powell rushed into the building

from which the FBI claims all shots were fired, was there for the search of the building, and had his loaded camera with him. The FBI makes no reference to this, to any other pictures, or to any other reports. It represents that Powell, outside the building, took only one photographs, and it referred me to him for it. It does not appear to be unreasonable to believe that an Army intelligence agent, inside the building for a long time and armed with a camera during the search at the scene of such a crime, might have taken some pictures and filed a report or reports.

161. What makes this, and particularly the FBI's nonresponsiveness pertaining to any other Powell pictures and reports, more provocative is the fact that all of the records of his intelligence unit have been destroyed. This is not supposed to happen, but it did, years ago, and the Army informed me of it. The Army records had been sent to Indiantown Gap, Pennsylvania, for storage but were destroyed. And what makes this even more provocative, again something strictly prohibited, the Army also destroyed all its JFK assassination records and so informed me. As I recall it, the Army identified three main files to me. Nobody ever bothered to explain why any Army records in any historical case, or any Army records pertaining to the assassination of a President/Commander-in-Chief, would be destroyed.

162. With regard to the professional New Orleans TV film still not provided or even offered, the FBI first rewrote the copyright law, as in time I was forced to establish by the litigation it forced, and then told me to get the film from the stations, although my letter states that I had already and wanted to compare the FBI's copies because one of the stations had informed me that some of its footage had disappeared.

163. What makes this, too, more provocative is the fact that the Secret Service also examined that footage at the time of the assassination and its

description states clearly that Oswald had and was with an unidentified **associate** the FBI has yet to identify. (This also is the subject of another old request in which I sought the fingerprint identification of one such associate, a request to which there has been no response from either FBIHQ or New Orleans.)

164. That the FBI received my requests and understood them is reflected in its report to the DAG in which it paraphrases them. That my check was received and cashed also is clear. Yet except as indicated above, I have not received any response from the FBI to this date and no response from either field office in this litigation even though I have repeated these specific requests on a number of occasions during this litigation. No search has been made. no search has been reported - the FBI just stonewalls and now it pretends it needs help from me in searching. This obviously is not true and it is one of the multitudinous indications of bad faith in the FBI's discovery and sanctions demands.

165. The inadvertent omission of this document reminded me of an earlier such inadvertency, dropping the reference in the retyping of my April 10, 1983, affidavit to its attached Exhibit 13. That Dallas record, provided in this litigation, reflects the truthfulness and accuracy of my attestation that the FBI never investigated the crime of the assassination itself but was dominated from the first by Director Hoover's instant vision/lone-nut-assassin solution. One of the areas of embarrassment to the FBI is disclosure of shortcomings and failings in its investigation.

166. The preceding paragraph refers to a Dallas FBI memo of the day of the assassination, written before Oswald had been charged with the crime, reporting that a nearby sheriff "advised JIMMY GOERGE ROBINSON and members of the National States Rights Party should be considered possible suspects in the assassination." Before there was any investigation, even before Oswald was charged, the FBI in

Dallas wrote on this memo, "Not necessary to cover as true subject located."

167. Even if the FBI had had any way of knowing at that time that Oswald was the "true subject," as it did not, it certainly had no way of knowing in those first few moments that there had not been any conspiracy. But no conspiracy had been ordained and there was no genuine conspiracy investigation, even after it was clear beyond question that the acknowledged evidence of the crime showed that it was beyond the capability of any one man. (In this the matter of the still withheld police broadcast tapes is relevant.)

168. What makes this instant FBI decision that Oswald alone was guilty and its refusal to investigate anything else even more provocative is that disclosed records reveal not fewer than three such threats against the President by the National States Rights Party in that area at that time. In addition, only three days before the assassination the President's motorcade in Miami was forbidden by the Secret Service after one of those NSRPers had been taped in a threat against him. Using an informer who had been an FBI symbol informer, the Miami police made this tape and gave it to the FBI, which still withholds it from me. I did request it.

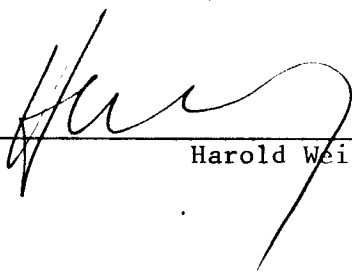
169. In regard to the allegations of bank president William Walters, the former FBI New Orleans clerk, some of the records of which Dallas deliberately hid, as without denial I have already established in this litigation, the FBI investigation of his allegations of a threat against the President is limited to a teletype, which it states it did not find. It makes no reference to any search for any other form of communication. Several other threats of that time against the President are recorded in form other than teletype. One in the Dallas area is that some of these extreme rightwingers were going to "rub his dick in the dirt" when the President was in Dallas. This also was reported to the FBI by local

authorities. No report of any subsequent investigation has been disclosed to me in this litigation.

170. Related to this immediate FBI determination not to investigate the crime itself are other existing records not disclosed in the so-called Dallas and New Orleans searches that also report this determination. That the records exist is revealed in what was disclosed to another requester in the records of the Little Rock field office. Not long after the crime FBIHQ notified all field offices that their investigations were to be limited to Oswald and not the crime, which the FBI regarded as solved. This disclosed record is the memo of that special agent in charge reporting this to all his agents. It states specifically that FBIHQ had communicated this to all field offices, and all includes Dallas and New Orleans. I provided a copy to the FBI. It has been silent since. Specifically, no Dallas or New Orleans search for any such records is reported and no such records have been provided to me. The obvious explanation is what I have referred to as "tricky" FBI filing by means of which it can retrieve anything it wants to retrieve but also can hide information from FOIA requesters by keeping it out of the main assassination files and by refusing to search any other pertinent files. (Another illustration of this already in the case record is the New Orleans withholding from its main assassination files of its inventory of them. The Dallas copy was in those files and was provided. This led to my proving that Dallas was knowingly and deliberately withholding pertinent records, which embarrassed the FBI.)

171. This addendum further reflects permeating FBI bad faith with regard to all of my requests, including in this instant litigation; that its noncompliances and refusals to search are deliberate; that its demands for discovery and sanctions are motivated by bad faith and have no basis in fact; and that all it has done in this litigation is designed to frustrate compliance, negate the Act, overburden the

courts and me, and is part of its decade and a half old scheme to "stop" me and my writing by tying me up in unnecessary litigation. Moreover, while some of my allegations in this litigation may be new to the Court, none are to the FBI, whose own records, of which Exhibit 14 above is only the newest illustration that I provide, reveal the completeness and accuracy of the information I provided, that I always provided more than enough accurate and pertinent information, and that no discovery was ever at any time needed. From my extensive experience, only some of which is indicated in the completely accurate attestations I have provided in this litigation, if the FBI needs anything pertaining to searches or compliance, it is a willingness to abide by the law, make good faith searches and comply with requests.



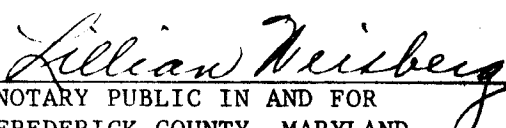
Harold Weisberg

FREDERICK COUNTY, MARYLAND

Before me this 13th day of June 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.





NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

EXHIBITS

No.	Paragraph	Page
1	19	8
2	72	25
3	77	26
4	79	26
5	81	27
6	90	30
7	91	30
8	96	32
9	97	32
10	100	33
11	116	38
12	118	39
13	130	45
14	150	52

memorandum

DATE: **AUG 14 1978**

DATE:

REPLY TO
ATTN OF

Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

C.A. 78-0322/78-0420

Consolidated

Exhibit 1

SUBJECT

Release of Records Pertaining to
Martin Luther King and John F. Kennedy

TO:

Inspector Allen McCreight
Federal Bureau of Investigation

FEDERAL GOVERNMENT

My recollection is that I have been assured that any records about either Martin Luther King or John F. Kennedy that are being released to anyone will also be released to Mr. Harold Weisberg, if they are within the scope of any of his requests. As a practical matter, this should be any record related in any way to the assassinations. For a while it seemed that the "system" was working, but now I am receiving complaints from Mr. Weisberg that other, presumably junior requesters are getting records, with no copies to him. Attached are several such complaints. An obvious problem is that I have assured Mr. Weisberg that this will not happen, so now I feel obliged to pursue the matter. I propose that this be an item on our discussion agenda this Wednesday, August 16.

discuss with [unclear] + [unclear] + [unclear] + [unclear]

ENCLOSURE

Attachments

EX-120
DE-38
REC-90

20 AUG 31 1978



00007 16 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

© U.S. Government Printing Office: 1977-241-526/2474

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

FOIA

UNITED STATES GOVERNMENT

Consolidated
Exhibit 2
Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

Memorandum

TO : Mr. Conrad

DATE: 1/23/67

FROM : W. D. Griffith

SUBJECT: ASSASSINATION OF
PRESIDENT JOHN FITZGERALD KENNEDY
DALLAS, TEXAS, 11/22/63
MISCELLANEOUS INFORMATION CONCERNING

Handwritten: 4473
1/23/67

The most recent book by Harold Weisberg entitled "Whitewash II - The FBI - Secret Service Coverup" is highly critical of the Bureau and specifically of the testimony of FBI Laboratory Examiner SA Lyndal L. Shaneyfelt. Weisberg previously authored the book "Whitewash" and is now reported to be writing "Whitewash III." Harold Weisberg is a Hyattstown, Maryland, poultry farmer, an ex-State Department employee, and an ex-Senate investigator who was removed from both positions because of suspicion of being a communist or having communist sympathies. Weisberg had the book printed himself because he could not interest any publishers in it possibly due to the libelous nature of its contents.

In Whitewash II, Weisberg extensively quotes the testimony of SA Shaneyfelt regarding the examination of the Zapruder film and the re-enactment that was based on the Zapruder film. He states that Shaneyfelt "ran the re-enactment that was made essential by the doctrine of the Report" and "the FBI knowingly engaged in a reconstruction they knew to be utterly false." He alleges in Whitewash II that SA Shaneyfelt "was the Commission's photographic expert," "he did or supervised their photographic lab work," and "those faces on the cutting room floor may have been put there by Shaneyfelt." After establishing in the reader's mind that SA Shaneyfelt did all the photographic work he refers

Enclosure *Improvement in damage by SA Shaneyfelt 2-6-67*

- 62-109060
- 1 - Mr. Mohr
- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Casper (Legal Research Dept)
- 1 - Mr. Wick
- 1 - Mr. Conrad
- 1 - Mr. Griffith
- 1 - Mr. Shaneyfelt
- 1 - 62-109090

ENCLOSURE

100-351938

NOT RECORDED
199 FEB 15 1967

~~ENCLOSURE~~
FEB 15 1967

LLS:mjk (11)

CONTINUED - OVER

Memorandum to Mr. Conrad dated 1/26/37

Re: ASSASSINATION OF

PRESIDENT JOHN FITZGERALD KENNEDY

62-10330

unceasingly to "picture doctoring," "edited or altered" photographs and the "destruction of evidence." He concludes with a very specific implication that SA Shaneyfelt cut out the much-publicized missing frames 208 through 211 of the Zapruder film to conceal from the public what really happened during the assassination. All of these allegations are, of course, completely false. (Life Magazine has recently admitted having spliced the original Zapruder film and cut out the four frames.) These frames were not missing in the FBI copy of the film and were considered in all evaluations by the Laboratory and the representatives of the Commission who viewed the FBI copy. SA Shaneyfelt made several photographic examinations at the request of the Commission but did not "run their photographic lab work." He assisted in the re-enactment but did not "run it" and, of course, did not edit, doctor, or mutilate any evidence. Weisberg suggests that SA Shaneyfelt may be a perjurer.

The allegations of Weisberg would appear to be libelous of both the Bureau and SA Shaneyfelt. Accordingly, in an effort to discourage and stop such highly irresponsible and unwarranted attacks against the Bureau on the part of Weisberg and others like him, the Bureau may wish to explore the feasibility of having a libel action brought against Weisberg in SA Shaneyfelt's name. Factors to be weighed in any such consideration are: (1) Legal estimate of whether successful suit might be sustained based on (a) the irresponsible and malicious statements in the book as opposed to (b) the recent Supreme Court decision holding that newsworthy persons including those who do not seek publicity have only a limited right to sue for damages for false reports that are published about them; and (2) a tactical estimate as to whether a net gain would accrue, bearing in mind the greatly increased forum which such an action would provide for Weisberg, as opposed to the fact that he is now apparently forced to publish his books privately.

SA Shaneyfelt, of course, contemplates no action in the matter unless so desired by the Bureau.

RECOMMENDATION:

The Bureau may wish to refer this memorandum and the enclosed book "Whitewash" to the Legal Research Desk for review and consideration as to whether it might serve as a basis for libel action against Weisberg.

Memorandum

TO : Mr. Mohr

DATE: 1/31/67

FROM : J. J. Casper

SUBJECT: ASSASSINATION OF PRESIDENT JOHN FITZGERALD KENNEDY DALLAS, TEXAS, 11/22/63 MISCELLANEOUS INFORMATION CONCERNING

HAROLD WEISBERG

Attached memorandum of 1/26/67, captioned as above, from Mr. W. D. Griffith to Mr. Conrad, concludes by recommending that the Legal Research Unit determine whether the statements made against FBI Laboratory Examiner SA Lyndal L. Shaneyfelt are libelous. For the reasons shown below, the Legal Research Unit concludes that the statements are libelous and that SA Shaneyfelt has a cause of action against the author of Whitewash II.

The statements made in the book definitely are libelous as to any ordinary person. They go far beyond the range of fair criticism and clearly charge, in their total context, that Shaneyfelt is a liar, forger, etc. They provide an ample basis on which the ordinary person could sue for libel, slander or defamation of character as the case may be.

A special problem arises in Shaneyfelt's case, however, because he is a public employee who has come to some public attention as a result of the use of his examinations in the work of the Warren Commission on the assassination of the President. If Shaneyfelt is now a "public official" his case would be determined by a rule different from that used in deciding an action for libel brought by an ordinary person. This rule was laid down clearly by the Supreme Court in New York Times, Inc. v. Sullivan, 376 U. S. 254 (1964), and reads as follows:

ENCLOSURE

A public official is allowed the civil remedy for libel and slander "only if he establishes that the utterance was false and that it was made with knowledge of its falsity or in reckless disregard of whether it was false or true." In other words, a public official may successfully sue for libel or slander only by proving actual malice and this must be proven by showing that the utterance was false and that it was made with knowledge of its falsity or in reckless disregard

- Enclosure
Bufile 62-109000
- Mr. Mohr
 - Mr. DeLoach
 - Mr. Rosen
 - Mr. Sullivan
 - Mr. Wick

- 1 - Mr. Griffith
- 1 - Mr. Shaneyfelt
- 1 - Bufile 62-109090

DJD/pal
(11)

NOT RECORDED
199 FEB 15 1967

51 FEB 27 1967

#393

"CONTINUED - OVER"

447

Memorandum J. J. Casper to Mr. Mohr
Re: Assassination of President
John Fitzgerald Kennedy
Dallas, Texas, 11/22/63
Miscellaneous Information Concerning

of whether it was true or false. A public official is held to this stricter standard of proof because the very nature of the position of a public official is such that in a free government a great deal of criticism concerning the official and his conduct of official affairs must be tolerated.

The Supreme Court has not clearly defined the term "public official" for all purposes. As the Court said in Rosenblatt v. Baer, 383 U. S. 75 (1966):

"We remarked in New York Times that we had no occasion to determine how far down into the lower ranks of government employees the 'public official' designation would extend for purposes of this rule, or otherwise to specify categories of persons who would or would not be included."

After the above language, the Court went on, in Rosenblatt v. Baer, to use other qualifying words which we believe clearly indicate that SA Shaneyfelt is not a "public official" for purposes of suit for libel and slander. The Court said, for example:

"It is clear, therefore, that the 'public official' designation applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs . . . But a conclusion that the New York Times malice standards apply could not be reached merely because a statement defamatory of some person in government employ catches the public's interest; that conclusion would virtually disregard society's interest in protecting reputations. The employee's position must be one which would invite public scrutiny and discussion of the person holding it, entirely apart from the scrutiny and discussion occasioned by the particular charges in controversy."

From the above language the Legal Research Unit concludes that SA Shaneyfelt is not a "public official" for purposes of the law of libel and slander and that, hence, he is not held to the stricter standard of proof applied to a public

Memorandum J. J. Casper to Mr. Mohr
Re: Assassination of President
John Fitzgerald Kennedy
Dallas, Texas, 11/22/68
Miscellaneous Information Concerning

official who sues. He is, on the contrary, held only to the ordinary standard of proof which is much easier to meet and which can be amply supported by the defamatory language used in the referenced book.

It is believed, moreover, that even should SA Shaneyfelt be held to be a "public official" for this purpose, the referenced book displays such a reckless disregard for the truth or falsity of charges that are actually false that SA Shaneyfelt probably could recover under even the stricter standard applied to public officials.

There are several policy considerations which are not within the province of the Legal Research Unit but we mention them for such value as they may have in making a decision whether SA Shaneyfelt should bring suit:

(1) The author of the referenced book may be inviting a law suit to obtain publicity and sales for his book.

(2) If the libel in the referenced book is not challenged now, the author may come out with Whitewash III - a book which he is said to be now writing - and make in that book additional statements which are even more libelous than those made here. The danger seems considerable if he is not stopped now.

(3) If SA Shaneyfelt's integrity ever is questioned in court where he appears in his usual capacity as an FBI Laboratory Examiner and challenged with particular reference to the statements made in this book, a bad impression is left, to say the least, if SA Shaneyfelt must reply that he took no action in this case. Many might consider failure to take action as a sort of admission of guilt by both SA Shaneyfelt and the FBI.

(4) As time passes and SA Shaneyfelt is not challenged in court during regular testimony, his claim for damages should he later consider action in this case is considerably weakened.

Memorandum J. J. Casper to Mr. Mohr
Re: Assassination of President
John Fitzgerald Kennedy
Dallas, Texas 11/22/63
Miscellaneous Information Concerning

RECOMMENDATION

That this memorandum be referred to the FBI Laboratory.

*Suggest we leave
it up to Sharney/alt
as to whether he
should see.*

2/1/67

*↑
[unclear]
[unclear]*

*[unclear]
[unclear]
[unclear]*

*[unclear]
[unclear]
[unclear]*

Memorandum

C.A. 78-0322/78-0420
Consolidated
Exhibit 4

TO : Mr. Conrad *W*

DATE: 2/7/67

FROM : W. D. Griffith *R*

SUBJECT: ASSASSINATION OF
PRESIDENT JOHN FITZGERALD KENNEDY
DALLAS, TEXAS, 11/22/63
MISCELLANEOUS INFORMATION CONCERNING

4677
Report

Reference is made to my memo to you dated 1/13/67 concerning the libelous nature of the book "Whitewash II" by Harold Weisberg and his allegations about the FBI and SA Lyndal L. Shaneyfelt. By memo dated 1/31/67 from Mr. Casper to Mr. Mohr the Legal Research Desk set out their review and recommendations concerning this matter.

Since there is no assurance that any benefit to the Bureau would be forthcoming if SA Shaneyfelt undertook the civil suit against Weisberg and since SA Shaneyfelt has no desire to obtain a financial advantage therefrom, he contemplates no action.

RECOMMENDATION: None. For information.

62-109060

- 1 - Mr. Mohr
- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Casper (Legal Research Desk)
- 1 - Mr. Wick
- 1 - Mr. Conrad
- 1 - Mr. Griffith
- 1 - Mr. Shaneyfelt
- 1 - 62-109060

W.D.G.
100-351430
W.D.G.

LLS:mb (11)

NOT RECORDED
199 FEB 15 1967

~~FEB 22 1967~~

59 MAR 6 1967 *328*

PERIS. REC. UNIT

ORIGINAL FILED IN

Route 12 - Old Receiver Road
Frederick, Md. 21701

April 1, 1977

Lyndal L. Shaneyfelt
6125 Vernon Terrace
Alexandria, Va. 22307

Dear Mr. Shaneyfelt:

I have received your bill for falsely represented expert testimony at \$35.00 an hour. Unspeakingly arrogant and indecent as is this fraudulent misrepresentation, it is far from your worst offenses against decency.

You misused the processes of the court and the immunity it granted you to make false and defamatory remarks about me that were in no way relevant to the deposition's purposes or the questions asked of you. You said you had wanted to sue me over my writing in one book only, that which deals with the suppression of photographic evidence in the so-called investigation of the assassination of an American President. You, of course, were the photographic expert in that "investigation."

Your purposes were obvious, to try to poison the well of information available to judges and to pretend that I do not know what I say, that I have some kind of invidious ulterior purpose in an entirely unpaid labor of many years.

Now that book was published ten years ago. It was the third of the books in which I addressed your work. Whatever you may have discussed with the Office of Legal Counsel of the FBI ten years ago or at any earlier or subsequent time, neither you nor any other FBI agent nor any Warren Commission counsel or Member nor any other one person of all the hundreds about whom I have written in seven books has written or phoned me to complain of unfair treatment.

In the deposition you claimed a desire of ten years ago to sue me. You'll do that when shrinks whistle from the backs of cows jumping over a green-cheese moon! It would have been improper for me to respond when you pulled what I presume is the practice of a life-time of experience at dirty tricks in the guise of testimony. However, at the end of the session I did tell Mr. Moschella of the FBI's Office of Legal Counsel that if you want to sue I'll be only too happy to waive any statutory limitations. You can accept this letter as that waiver.

I remember enough of what I wrote ten years ago to be confident you will not sue and will not subject to examination what you did and did not do as the photographic expert when your President was killed and you were among those whose responsibility it was to prevent harm to him.

You reenacted the crime - with the wrong camera and from the wrong place. Your reenactment of those six seconds that nullified our system of society was 30 percent in error as a result. You were aware of this error and assured those whose "expert" you were not to be concerned, that you had added a mark to indicate the point at which shots were fired.

Without your years of FBI training and experience, I would not call this charade a reenactment.

You testified to your numbering of the frames of the film of the assassination. In your numbering you just managed to slip from 207 to 212. You described as 212 what quite clearly is not 212 but is in part 212 and part 208. What a remarkable coincidence when in the official account it is at 210 that the President could have been hit for the first time.

On this crucial photographic evidence you testified to a straight-line relationship between this photographer, the late Abraham Zapruder, and another, Phil Willis. You even prepared an elaborate exhibit I reproduced in facsimile. It shows this straight-line relationship between both cameras, with the President between them. The photograph you selected for your exhibit was snapped, by universal agreement and 100 percent of the testimony, after the President had been hit.

Your expert testimony did not include whether or not Willis is shown in the Zapruder film at this point, as is absolutely necessary for the official account of the assassination to be within possibility.

Nor did your expert testimony to the Commission include any information about what the motion picture film captured and preserved that is not visible on projection. This is a matter about which in the testimony for which you now claim expert fees you also attempted to obfuscate.

On exposure that movie film captured 20 to 25 percent more than is visible on projection. This film, between the sprocket holes, also just happened to disappear forever when those four frames were removed from the original. It is not duplicated in the copying process, as you also know and did not testify to. Thus, the one possible means of establishing photographically whether or not Willis was in Zapruder's film at the time he had to be for the FBI's explanation of the assassination to begin to be tenable disappeared forever - and this was not included in your expert testimony.

Without benefit of your years of FBI training and experience, I was able to address this definitively in a manner that escaped your vaunted expertise. I did examine this marginal material, this 20 to 25 percent of the film that you never once testified to when it was your solemn, I think close to sacred, obligation to testify to it. I examined this marginal material in the individual slides made by LIFE magazine, in those frames that were not somehow destroyed without your giving any testimony on that, either. Examination of the frames prior to those destroyed shows that prior to Frame 210 Willis had taken his picture, removed his camera from his eye and had walked into the street, exactly as he testified.

This means, of course, that his picture of the President after the President had been shot was taken before Frame 210 and on this basis alone destroys you and the FBI's 'solution' to the crime.

Consistent with this, your 're-enactment' of the crime was predicated upon that same shot having struck the President in the neck. With this preconception the photographs of the reenactment do show the impossibility of that shot also having inflicted all five wounds on Governor Connally, another requirement of the FBI's 'solution' to that most horrible of crimes.

In my continuing work and thanks to FOIA, I was able to obtain other suppressed official evidence. Incredible as it may seem, the FBI never obtained the official certificate of death and in those boasted-of thousands of its reports and the Commission's 200 cubic feet of files there was no single reference to the existence of a death certificate. It was executed by the President's own physician, Admiral George Burkley. I recall no FBI interview with Dr. Burkley nor any indication of any FBI interest in a death certificate. Undaunted, you went ahead with your photographic expertise. And thus you had no interference from the fact that the death certificate shows your reenactment, based on all those years of FBI experience, was a fake. The President was wounded, in the words of that death certificate, at the "level of the third thoracic vertebra." This is six inches lower than your expertise placed it in your "reenactment."

Without this very special kind of expertise, I am sure you can see the relevance of the foregoing to my continuing quest for the relevant scientific tests, including those allegedly performed on the President's garments.

Memory is fragile and compared to what it was mine has failed. These 13 years, years in which there was no FBI to pay me or reward me with a retirement while I undertook to do as much as I could of what the FBI was supposed to do and did not do, have taken a heavy toll. Perhaps the most difficult of these strains is the emotion of following up on such expertise as yours. My memory may be faulty, but I do not recall your expert testimony on the Zapruder camera including either its slow-motion capability or the means by which it is activated. The motion of his finger of a fraction of an inch when he was shocked and trembling could have activated the slow motion. This, of course, would have reduced the few seconds of time even more.

Then there is the report of Dallas FBI Agent Robert H. Barrett in which he stated that you as an expert knew could not be true, that Zapruder had told him "the camera was set to take normal speed movie film or 24 frames per second." Your expertise did not include correcting this. Normal is indicated at 16 frames per second. Slow motion is 24 frames per second. Your complaints against me do not include my reproduction of this formerly suppressed Barrett report in facsimile.

These are not all the matters relating to you about which I have written. They also are not all the reasons you will not dare sue me.

I know of no errors in my work, large as my published work is, that do not come from trusting the FBI's word, as with this Barrett report you did not correct.

If what I have published is not enough to give you grounds for suit, then I here add more. I believe you failed in your obligations when you were responsible for part of the investigation of the assassination of a President, with all that means, including the negation of representative society. I believe your failure was not because you did not know better - that it was deliberate - and that the results include the misleading of a Presidential Commission and the deception of a grieving nation.

With these suspicions of your self-styled expertise, I think it is apparent that you are the last person in the world I would call as an expert witness. And you very well know, as does Mr. Frasier who made the same obscene demands upon me, that I called you pursuant to the decision of the federal court of appeals in its decision in No. 73-2021. While there is other relevant language in this decision, it should suffice to repeat:

The data which plaintiff seeks to have produced, if it exists, are matters of interest not only to him but to the nation. Surely their existence or nonexistence should be determined speedily on the basis of the best available evidence, i.e. the witnesses who had personal knowledge of the events at the time the investigation was made.

Without possibility of ~~error~~^{error} this includes you, Mr. Frasier and others I should call but cannot begin to afford to call. Without possibility of doubt this precludes, and to the government's knowledge precludes, the possibility that you were called as an expert witness and are in any way entitled to such extortionate fees. Your questioning was limited to a narrow interpretation of the language of the decision.

While I cannot be certain until I read the transcript, I do believe that your testimony was not entirely faithful to fact. I have already inquired of the Archives about the enlargements showing the damage to the curbstones to which you testified. The Archives reports it has no such pictures by you.

Concepts of what is right and wrong, decent and indecent, are individual matters. As a prisoner of war escort guard in World War II I had extensive experience with men whose concepts were radically different from mine. They were men who considered anything done in pursuance of an order right and proper, men who never questioned an order. It has been anything but pleasant to study what is termed the official investigation of the assassination of a President, the investigation of which you were so important a part.

4

But I must tell you that in a long lifetime of having to deal with the sordid and the wrong-headed, I recall nothing as shocking and to me as obscene as your arrogant demand for payment at \$35.00 an hour for court-ordered testimony.

Have you no shame?

Sincerely,

Harold Weisberg

cc. Hon. John Pratt
AUSA Michael Ryan

Lyndal L. Shaneyfelt

6175 VERNON TERRACE, ALEXANDRIA, VIRGINIA 22307

TELEPHONE (703) 765-1331

March 29, 1977

Mr. James H. Levar
Suite 690
910 Sixteenth Street NW
Washington, D. C. 20036

For professional services in the form of testimony for a deposition in the matter of Weisberg vs. U. S. Department of Justice - Civil Action No. 75-0226 at the quoted rate for expert testimony of \$35.00 per hour plus expenses:

Fee amount for three hour on 3/28/77 - - -	\$105.00
Mileage for 24 miles @15¢ per mile - - -	<u>3.50</u>
Total fee and expenses - - - - -	\$108.60
Less your check dated 2/14/77 - - -	<u>21.40</u>
Balance due - - - - -	<u><u>\$ 87.20</u></u>


Lyndal L. Shaneyfelt

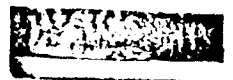


TABLE OF CONTENTS

I. THE ASSASSINATION

A. Assassin in Building 1

B. Patrolman Tippit Killed 2

II. THE EVIDENCE

A. Events Prior to the Assassination 4

B. Events Following the Assassination 6

Oswald's Movements 6

Identified on Bus 7

In a Taxicab 8

Arrival at Room 8

Oswald's Murder of Patrolman Tippit 9

Eyewitnesses to Tippit's Killing 9

C. Oswald's Apprehension 10

Gun Misfired 10

Revolver Traced to Oswald 10

D. Interview of Assassin 11

E. The Assassination Weapon 14

Rifle Ordered by Oswald 15

Tests of Rifle 17

Textile Examination 17

Cartridges Fired in Oswald's Rifle 18

Palm Print on Rifle 18

F. Other Evidence 19

Cardboard Cartons 19

Paraffin Test 19

Photograph	19
Map in Oswald's Effects	20
G. Prior Similar Act	20

III. LEE HARVEY OSWALD

A. Before Assassination of President Kennedy	22a
Biographical Data	22a
Military Service	23
Defection to USSR	24
1. Preparation for Trip	24
2. Saved Money in Marine Corps	25
3. Affirmed Allegiance to USSR	25
4. Disillusioned with Life in U.S.	26
5. Offered To Disclose Military Information	26
6. Accepted as Resident Alien	26
Return to the U.S.	27
1. Denied Any Allegiance to USSR	27
2. Passport Renewed	28
3. Letter to Secretary of Navy	28
4. Letter to Marine Corps	28
5. Repatriation Loan	29
6. Arrival in U.S.	30
FBI Investigation Instituted	30
1. First Interview with Oswald	31
2. Reinterview by FBI	33
Related Subversive Activities	35
1. Communist Party, USA	35
2. Fair Play for Cuba Committee	35

Oswald Again Interviewed	36
Activities of One A. J. Hidell	37
Publicly Avowed Marxist	38
Oswald's Return to Texas	39
 B. After Assassination of President Kennedy . .	 41
Early Years	41
1. Elementary School Period	41
2. Junior High School Period	42
a. Psychiatric Analysis in New York	42
b. Return to New Orleans	44
3. High School Period	44
Military Duty	47
Trip to the Soviet Union	49
Oswald's Suicide Attempt	50
Life in the Soviet Union	50
Oswald's Version of Soviet Payments.	51
Oswald's Proposed Book	53
Views on Communism	53
Additional Writings	54
Questions and Answers	55
Views on Interviews	56
Financial Picture of Trip	57
Employment in Fort Worth	58
Move to Dallas	59
1. Contact with Communist Party	59
2. Contact with Socialist Workers Party	60
3. Employment and Domestic Difficulties.	61
Move to New Orleans	61
Role in Fair Play for Cuba Committee	62

Continued Contacts with Communist Party . . .	66
Mrs. Oswald's Move to Texas	67
Obtained Passport.	68
Trip to Mexico	69
Soviet Consular File.	71
Arrival in Dallas	71
Oswald's Income	72
Personal Resumé	73
Observations of Marina Oswald	74

INDEX

76

act

Riglio Elementary School	42
Roberts, Mrs. Earlene	8
Rose and Company, George, Incorporated	10
Rusk, Dean	71
Russia	25, 50, 57, 68
Russian Language	32

S

St. Marks School, Dallas	40
St. Martin's Episcopal School	65
Scoggins, W. W.	9
Selective Service Card	12, 64
Socialist Workers Party	35, 60
Southampton, England	49
Soviet Ambassador to U.S.	71
Soviet Embassy, Mexico City	39, 68
Soviet Embassy, Washington, D. C.	33, 61, 67, 71
Soviet Government	30, 52
Soviet Publications	49
Soviet Union	2, 3, 12, 22a, 23, 25, 26, 30, 31, 32, 32, 84, 35, 39, 49, 50, 51, 52, 53, 55, 56, 57, 61, 67, 70, 71, 73, 74

Soviet Visa	70
Stalin, Joseph	54
State, Department of	29, 30, 38, 68
Stovall, Robert L.	59
Student, Tulane University	65
Switzerland	24
T	
Task, Joseph	60
Texas Employment Commission	59
Texas School Book Depository Building	1, 5, 6, 11, 13, 14, 15, 19, 20, 22, 40
Texas Theater, Dallas	2, 10
Tijuana, Mexico	12
Tippit, Patrolman J. D.	2, 9, 11, 17
Tompkins, Brigadier General R. McC.	28, 29
Trade Mart	1
Transportes Frontera (Mexican bus line)	70
Truly, Roy S.	7, 13
Tujague, Gerard F., Inc.	45
U	
USSR (see Soviet Union)	
U. S. Marine Corps	3, 26, 29, 31, 32, 33, 34, 47, 48, 49, 57, 73

Memorandum

TO : Mr. Wick
FROM : M. A. Jones

DATE: 9-13-66

SUBJECT: HAROLD WEISBERG
AUTHOR OF BOOK, "WHITEWASH"
INTERVIEW ON WTOP RADIO
9-13-66

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

Harold Weisberg, author of the book, "Whitewash," which is a controversial study of the assassination of President Kennedy and the Warren Commission Report, was interviewed by Bob Raiford on WTOP Radio at 2:10 p.m. today.

Basically, Weisberg's comments followed the general theme of other individuals questioning the facts surrounding the assassination of President Kennedy. Weisberg commented that the Warren Commission Report on which his entire book is based leaves a lot of questions unanswered and that the Commission did not do the job which was expected of it. He contends that the entire matter must be investigated in public, preferably by Congress.

Weisberg commented that there is serious doubt concerning all conclusions in the Report and that the Report is replete with too many coincidences. He contends that the evidence clearly indicates that at least two individuals were involved in the assassination and that there is no proof that Oswald actually was in the sixth floor window of the Texas Depository Bookstore as stated in the Report.

Weisberg questioned the sight on the gun allegedly used by Oswald and said that the FBI could not even get the sight to function properly. He also commented that a different automobile was used in the re-enactment of the assassination and that the FBI reached conclusions without taking into consideration the different size of the car and the seats. Weisberg commented that one question which is still unanswered was volunteered by Mr. Hoover during his testimony before the Commission and that was: "Why didn't the assassin shoot prior to the car turning left off of Houston Street?" Weisberg commented that Mr. Hoover answered this by saying: "There was a tree in the way"; however, according to Weisberg, there are no trees on Houston Street.

- 1 - Mr. DeLoach
- 1 - Mr. Wick
- 1 - Mr. Rosen
- 1 - Mr. Sullivan

REC-59

SEP 21 1966

SEP 27 1966
BOS:mjg (8)

(Continued next page)

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M. A. Jones to Wick Memo
RE: Harold Weisberg

Weisberg is completely off base on this point. The motorcade as it turned left off of Houston Street entered the park and from the window of the Bookstore trees did block the view of the motorcade prior to entering the park. The Director's testimony is accurate.

All in all, the interview with Weisberg was a rehash of the many unfounded allegations which have been made concerning the assassination and merely another effort on the part of a writer to exploit the assassination for his own financial gain.

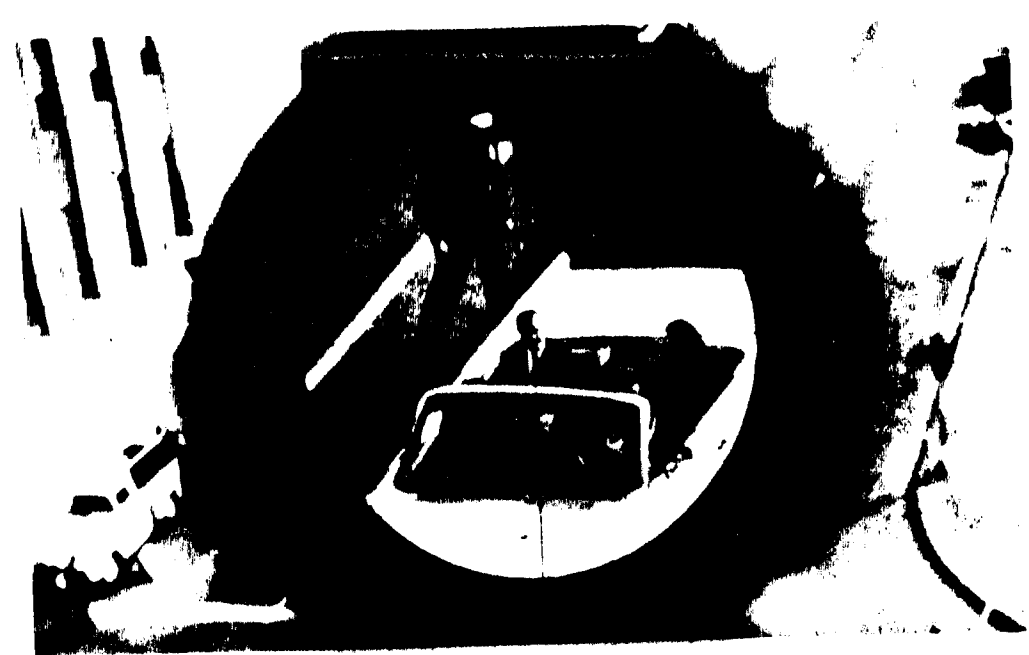
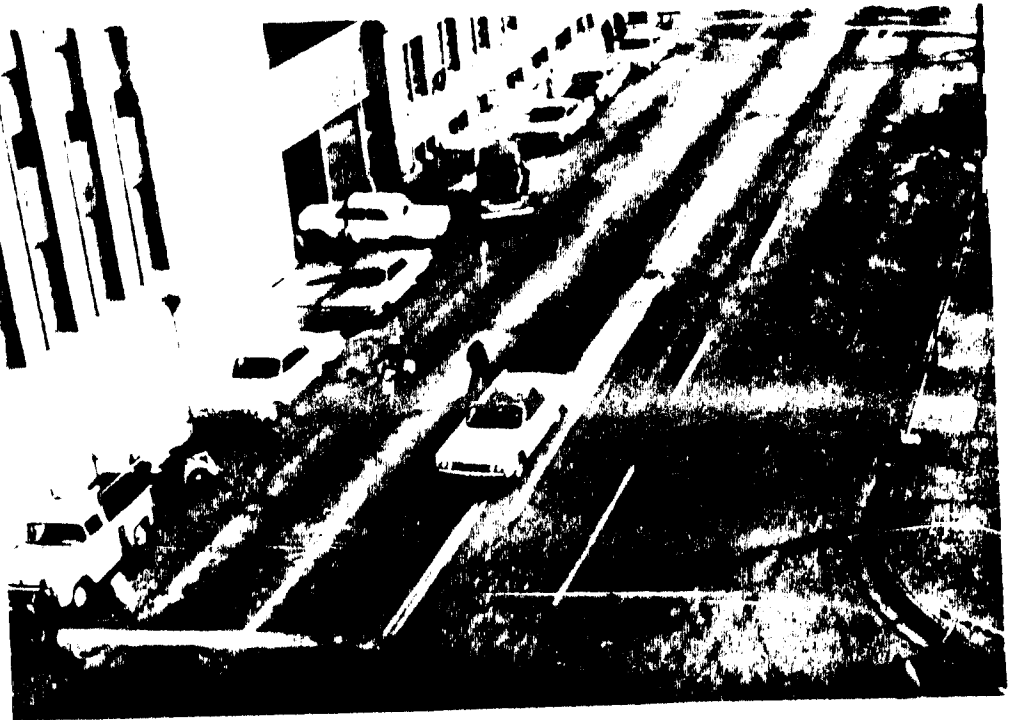
RECOMMENDATION:

For information.

[Handwritten signature]

Wick

[Handwritten marks: checkmark and initials]



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16

DEPT. OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

NO

to Oswald's

View of oncoming motorcade from the sixth-floor window. These pictures, taken by the Secret Service (Exhibit 875) dispute J. Edgar Hoover's testimony about obstruction of the alleged assassin's view. See page 51.

Memorandum

TO : DIRECTOR, FBI
ATTENTION: CRIME RECORDS

FROM : SAC, NEW YORK (66-3476)

SUBJECT: HAROLD WEISBERG
AUTHOR OF "WHITEWASH"
COOPERATION WITH NEWS MEDIA
WNEW-TV

DATE: 7/20/66

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

C.A. 78-0322/78-0420
Consolidated
Exhibit 10

On 7/13/66, [redacted] of the Alan Burke television show, seen on Saturday nights on WNEW-TV, telephonically advised that ALAN BURKE's guest for the 7/22/66 show would be HAROLD WEISBERG, the author of the book "Whitewash." According to [redacted] this program would be taped on 7/14/66. His purpose in calling was to furnish us this information, and he requested any information in possession of the FBI which could refute WEISBERG's book.

[redacted] was furnished all public source data and material which refuted criticism placed on the FBI or the Warren Commission for their investigation of the assassination of President KENNEDY. Arrangements were made so that the audio portion of the tape could be reviewed by the NYO.

On 7/19/66, the audio portion of the Alan Burke Show was reviewed by Special Agents of the NYO, a summary of which follows:

Mr. WEISBERG advised that he had problems in having his book published as there was a self-imposed embargo by the publishing firms that this was not a good topic for their business. He stated that no one in government entered into this embargo and that it was entirely self-imposed by the publisher.

He stated he did not agree with the Warren Commission's report on the assassination of President KENNEDY, nor of the two FBI reports on President KENNEDY's death. However, he did not go into detail of why he did not agree with the FBI reports.

- 2 - Bureau
- 1 - New York

FJL:jaw
(3)

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Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

CRIME RESEARCH

NY 66-3476

He advised that both the Warren Commission and the FBI were government agencies that were in some way involved either directly or indirectly with the President; such as the Secret Service protecting the President, and LEE OSWALD involved in assignments with the FBI.

He spoke of the autopsy performed by the Naval doctors in Washington, D.C., and how some of the first reports were destroyed by the Chief Examiner. He also stated that the Naval examinations did not wholly agree with the findings of the doctors in Dallas who tried to save the President's life on the day he was assassinated. He explained that the doctors in Dallas had stated in their reports that there was a wound in the neck area of the President indicating a possibility of a person firing from another position other than that position of OSWALD's.

WEISBERG stated that it was his opinion that OSWALD was a fall guy, that there was someone else involved but that he did not know who, how many, or what their reasons were for killing President KENNEDY. He further stated that he could not name any organization or give any opinion of who might have taken part in this assassination.

He stated that the FBI reports were different from the Commission's report and that he did not hold the FBI responsible for the Commission's report, but that the Commission's staff was responsible and not the men on the Commission.

WEISBERG then went on to explain that each member of the Commission was a dedicated man, fair, and put out his best work. However, they erred in their findings. He also stated that he was not challenging the integrity of Chief Justice WARREN.

WEISBERG stated that he could not accept the Warren report in any form and set forth the conclusions of his book as follows:

- 1) The investigation was not done well.
- 2) The investigation must be done by Congress and must be public.

NY 66-3476

3) For him to succeed in bringing about the above second step, he must destroy, by means of his book, the findings of the Warren report or leave a very great doubt in everyone's mind.

He stated he did not feel the Commission proved that OSWALD could kill the President alone or that he must have had the help of another person. He further stated that OSWALD could not have killed police officer TIBETT. He stated he believed that the man who killed officer TIBETT bore a very close resemblance to OSWALD. At this point in his interview, he stated he believed the Commission bent evidence to their own thinking and should have investigated the death of officer TIBETT. He stated, based on the Commission's own investigation of OSWALD's movements, he could not have been in the area where TIBETT had been killed. He further stated that nowhere in the Commission's report is there any information on TIBETT's death.

In the discussion of the Warren Commission's report, WEISBERG stated that a number of problems confronted the government at the time of President KENNEDY's assassination; such as the public tranquility, was this assassination a conspiracy or a plot by a foreign government, and would it lead to war. All these thoughts lead to extremely difficult problems in conducting such an investigation.

He stated that in speaking of the men on the Commission, that they were loyal, dedicated and trustworthy citizens. However, because of their high position in public office and not being able to delegate these powers, they in turn delegated the investigation to staff members and this is the area in which they failed.

WEISBERG spoke about an unknown witness who was interviewed in Dallas, Texas, by a staff member and who was accused by this staff member of perjury and that the Commission never followed this up. He stated the Commission set about to prove a case against OSWALD, who was a person accused, rather than to obtain the truth.

NY 66-3476

He further pointed out that a man was arrested in a building across Houston Street in Dallas, Texas, for no other reason than for being unable to explain what he was doing there. This was just before Dallas Police had picked up OSWALD. He stated the Commission did not interview this person.

Several times during the interview, WEISBERG stated he doubted the accuracy of the Warren report but went out of his way to state he did not doubt the intent of the members of the Commission.

WEISBERG also spoke of finding a rifle in the Book Depository and three shells, that no one saw OSWALD carry the gun into the building, that the proof that OSWALD had bought such a gun was based on handwriting, and that no one had ever seen OSWALD with this rifle in his possession.

He also discussed, at some length, the autopsies performed on TIBETT, OSWALD, and President KENNEDY, and that in the report, only President KENNEDY is mentioned, and this is for the first time.

WEISBERG was very critical of the Dallas Police Department and stated "they were directly responsible for OSWALD's murder."

He then went on to explain that 70 Dallas Police officers were used to protect OSWALD and against the advice of the Sheriff's Office of Dallas and the FBI, they would not remove OSWALD on the night of February 23rd. He stated the reason the Dallas Police Department would not remove him was the Dallas Police Chief had told the Press the exact time he was planning to move him and that he wanted to keep this appointed time. He stated that he felt the Commission should have looked into the Dallas Police Department activities.

WEISBERG put great emphasis on the three shells found in the Book Depository. He stated that these shells, after examination, were found to have been in another rifle, other than the one found on the 6th floor. WEISBERG stated

NY 66-3476

he was using as his authority Mr. HOOVER, Director of the FBI. He stated that although they had markings on them from the rifle found on the 6th floor, they were not able to say when they had been fired. He also stated that only one of OSWALD's palm prints was found on the rifle, in a position under the barrel of the gun, and that various prints of OSWALD's were found on the 6th floor, but these were of no value in the investigation because OSWALD worked on that floor in his every day duties at the Depository.

WEISBERG further stated that a bullet, described by the Commission as hitting President KENNEDY and Governor CONNELLY, could do all the things that it did and not be deformed. He described three bullets, the above mentioned one, the missed bullet, and the one in President KENNEDY's head. He pointed out that OSWALD was a rather poor shot, having scored a 191 in the Marine Corps and that a 190 was the qualifying score for a marksman.

WEISBERG discussed ballistics during the discussion and divided this into two parts:

- 1) concerning the President
- 2) concerning officer TIBETT.

WEISBERG stated that with regards to the President, some fragments can be identified and some cannot. He stated the FBI made a spectrographic analysis and a Special Agent GALLAGHER of the FBI, who made the analysis, was called as a witness only as the hearing concluded around September 15th, and that he was never asked for a spectrographic analysis nor is this analysis part of the record. Mr. WEISBERG stated even Mr. HOOVER said that the curbstone fragments were not associated with other bullet fragments.

With regard to officer TIBETT, WEISBERG stated that the FBI took his pistol to its laboratory in Washington, D.C., fired it 100 times, and could not associate the bullets with the pistol that they knew it was fired from.

NY 66-3476

In answer to a question about the speed of firing the rifle, WEISBERG stated that without regard to accuracy, and with a bullet in the breach, the most competent men in the FBI, "the fastest drawer in Washington" took 2.3 seconds just to reload.

A person by the name of GEORGE ABBOTT asked Mr. WEISBERG about the question of a person masquerading as OSWALD. Mr. WEISBERG replied that he devoted a whole chapter in the book to this. Another person made the allegation that there was a man using the name OSWALD around September 15th. The FBI was asked to look into this and located three Cuban refugees, one of whom bore the resemblance of OSWALD. WEISBERG stated the Commission got around this by stating that OSWALD was in Mexico at the time.

This program is two hours in length and because of the great expense involved in taping this program, no extra copies of the tape could be made and none are available.



REQUEST FOR ACCESS TO OFFICIAL RECORD
UNDER 5 U.S.C. 552(a) and 28 CFR PART 16

See instructions for payment and delivery of this form at bottom of page

NAME OF REQUESTER Carol Weisberg		ADDRESS (street, city, state and zip code) Rd. 3, Frederick, Md. 21701	
DATE 5/16/70			
DO YOU WISH TO RECEIVE COPIES? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, SO INDICATE (no more than 10 copies of any document will be furnished).	NUMBER OF COPIES REQUESTED 1 each	OFFICE AND CITY WHERE RECORD IS LOCATED (if known) Washington, D.C.	
DESCRIPTION OF RECORD REQUESTED (Include any information which may be helpful in locating record) Spectrographic analysis of bullet, fragments of bullet and other objects, including garments and part of vehicle and cobbstone said to have been struck by bullet and/or fragments during assassination of President Kennedy and wounding of Governor Connally. See my letter of 5/16/70			

LITIGATION: DOES THIS REQUEST RELATE TO A MATTER IN PENDING OR PROSPECTIVE LITIGATION? YES NO

FILL IN IF IN PENDING LITIGATION →	COURT (check one)	DISTRICT	NAME OF CASE	DOCKET NUMBER
	<input type="checkbox"/> FEDERAL <input type="checkbox"/> STATE			

There is no prospective litigation if request is complied with

Handwritten Signature
SIGNATURE

FOR USE BY DEPARTMENT OF JUSTICE ONLY	A MINIMUM FEE OF \$3.00 MUST ACCOMPANY THIS REQUEST. OTHER CHARGES ARE AS FOLLOWS. (do not write in this box)	
	HIS REQUEST IS: <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> REFERRED	FOR SECOND AND EACH ADDITIONAL ONE QUARTER HOUR SPENT IN SEARCHING FOR OR IDENTIFYING REQUESTED RECORD \$ 1.00 _____ FOR EACH ONE QUARTER HOUR SPENT IN MONITORING REQUESTER'S EXAMINATION OF MATERIAL \$ 1.00 _____ COPIES OF DOCUMENTS: 50¢ FIRST PAGE, 25¢ EACH ADDITIONAL PAGE _____ FOR CERTIFICATION OF TRUE COPY \$ 1.00 EACH _____ FOR ATTESTATION UNDER THE SEAL OF THE DEPARTMENT \$ 3.00 EACH _____ GSA CHARGE _____ TOTAL CHARGE _____

Payment under this section shall be made in cash, or by United States money order, or by check payable to the Treasurer of the United States. Postage stamps will not be accepted.

This form may be delivered to any of the offices listed in 28 C. F. R. 16.2 or mailed to: Office of the Deputy Attorney General, Department of Justice, Washington, D. C. 20530

- 1 - Mr. Mohr
- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Sullivan (Attn: T. N. Goble)

May 23, 1970

The Deputy Attorney General

Director, FBI

- 1 - Mr. Conrad
- 1 - Mr. Jevons
- 1 - Mr. Frazier
- 1 - Mr. Gallagher

HAROLD WEISBERG: REQUESTS FOR INFORMATION UNDER FREEDOM OF INFORMATION ACT

Reference is made to your memorandum dated May 19, 1970, regarding Mr. Weisberg's request for certain information relating to the assassination of former President Kennedy.

Your attention is directed to my letter to the Attorney General dated November 20, 1967, entitled "Assassination of President John Fitzgerald Kennedy, November 22, 1963, Dallas, Texas," which set out information concerning Harold Weisberg from the files of this Bureau. This included the fact that Weisberg was one of ten employees fired summarily by the State Department in 1947 because of suspicion of being a communist or having communist sympathies. Later Weisberg was allowed to resign without prejudice.

Weisberg has written several books concerning the assassination of President Kennedy which attack the Warren Commission Report. His book "Whitewash-The Report of the Warren Report" is a vitriolic and diabolical criticism of the Warren Commission, the FBI, the Secret Service, several other U. S. Government agencies, and the Dallas, Texas, Police Department. It contains inaccuracies, falsehoods, and deliberate slanting of facts to fit Weisberg's purpose.

The following comments are in the order they were requested in Mr. Weisberg's letters, copies of which were forwarded with your memorandum:

Spectrographic Analyses: Weisberg has requested details of the spectrographic analyses conducted on certain bullet evidence involved in the assassination.

- Tolson _____
- DeLoach _____
- Mohr _____
- Bishop _____
- Casper _____
- Callahan _____
- Conrad _____
- Felt _____
- Gale _____
- Rosen _____
- Sullivan _____
- Tavel _____
- Walters _____
- Tele. Room _____
- Gandy _____

Handwritten initials and signatures

RMJ:mjk (1)

(see note page 6)

JUN 2 1970 JUN 12 1970

ENCLOSURE

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The Deputy Attorney General

Reference is made to the matter entitled "John Nichols Versus United States of America, et al., U. S. D. C. D. Kan., Civil No. T-4536" and to my memorandum to Mr. William D. Ruckelshaus dated February 17, 1969. This material related to the release of spectrographic data concerning certain bullet evidence involved in the assassination of former President Kennedy. It is understood that litigation is still pending as to whether or not information regarding spectrographic analyses will be released.

As mentioned in my memorandum of February 17, 1969, it is our considered opinion that the results of the spectrographic tests are adequately shown in the report of the Warren Commission where (Volume 5, Pages 67, 69, 73 and 74) it is specifically set forth that the metal fragments were analyzed spectrographically and were found to be similar in composition. The work notes and raw analytical data on which such results are based are not normally made public particularly since they can only be interpreted properly by scientifically trained personnel.

The work notes and raw analytical data are part of the investigative files of this Bureau and rightfully fall within exemption number 7 of subsection (b) of 5 U. S. C. 552 which specifically exempts investigatory files compiled for law enforcement purposes.

Release to any and all who request them of the raw analytical data in the thousands of spectrographic tests conducted in the numerous cases received by this Bureau would place an unnecessary and heavy burden on this Bureau and thus greatly hamper its efficient operation; and compliance with the current request would set a potentially highly undesirable precedent in this regard.

The Deputy Attorney General

Based on these observations, it is our firm opinion that the provisions of 5 U. S. C. 552, subsection (b), exemption 7 should be invoked and the request of Mr. Weisberg for the spectrographic analyses be denied.

- (2) Documentation Relating to David William Ferrie:
Mr. Weisberg described the records he requests as documents relating to the late David William Ferrie of New Orleans:

- (a) withheld from the Warren Commission and/or

Comment: No documents relating to David William Ferrie were withheld by the FBI from the Warren Commission.

- (b) withheld from the National Archives

Comment: So far as is known, all records of the Warren Commission pertaining to David William Ferrie were turned over to the National Archives by the Warren Commission, together with all other records of the Warren Commission.

- (c) withheld by the National Archives by order of the Department of Justice

Comment: Your attention is directed to my letter to the Attorney General dated May 15, 1968, entitled "Assassination of President John Fitzgerald Kennedy, November 22, 1963, Dallas, Texas," and to my letter to the Acting Attorney General dated February 24, 1967, entitled "Public Disclosure of

The Deputy Attorney General

Warren Commission Records." Both of these letters concerned 55 pages of Warren Commission Document No. 75 which dealt with allegations and investigation regarding Ferrie. Copies of the 55 pages in question were enclosed with the letter of February 24, 1967. These are pages 212-221, 225-228, 281-304, 307-311, 313-316, 319-323, and 341-343, all inclusive. In the letter dated May 15, 1968, I stated that the final decision as to the public disclosure of the material concerning Ferrie rests with the Department of Justice. I also advised that this Bureau has no objection to public disclosure of the data concerning Ferrie.

These pages were originally excluded from public disclosure under guidelines approved by Mr. McGeorge Bundy, Special Assistant to the President. The specific guideline applicable is identified as 3(C), which provided that public disclosure should be made unless disclosure "would be a source of embarrassment to innocent persons, who are the subject, source, or apparent source of the material in question, because it contains gossip and rumor or details of a personal nature having no significant connection with the assassination of the President." Our position as to this information concerning Ferrie has not changed since the May 15, 1968, letter.

- (3) Exhibit 60 (Pictures of President Kennedy's Shirt and Tie): Weisberg requested a photographic copy of a portion of Exhibit 60 showing the tabs of the President's shirt. Apparently Archives has furnished a copy of this Exhibit,

The Deputy Attorney General

however, he has advised the quality of this copy is not satisfactory for his purpose and has requested a print from the original negative which is a part of this Bureau's files.

Compliance with the request would set an undesirable precedent and could lead to numerous such requests for copies of photographic matter furnished the Commission. The Bureau can ill afford to divert away from our important investigative responsibilities the time needed to search our voluminous files and prepare such material. However, since the photograph referred to as Exhibit 60 is available to the public through Archives it is felt the matter of furnishing additional copies is for the Department to decide and an additional photographic print of the portion showing the "shirt tabs" is attached in the event the Department wishes to set this precedent.

- (4) Concerning Receipt of Material Obtained at Autopsy:
Weisberg requested a photograph and all records relating to the material removed by Commander James Humes, M. C., U. S. N., at the time of the autopsy and receipted for by Special Agents Francis X. O'Neill and James W. Sibert November 22, 1963. This request appears to be based on his inability to specifically identify the Exhibit in the Commission report.

The material referred to in the receipt is identified as Commission Exhibit 843. A photograph of this Exhibit was furnished the Commission and was published in "Hearings Before the President's Commission on the Assassination of President Kennedy," Volume 17, Page 841. Other

The Deputy Attorney General

information regarding this Exhibit appears elsewhere in the Commission's Hearings.

- (5) Autopsy Photographs: The FBI has never had possession of custody of the autopsy photographs requested by Mr. Weisberg.

Enclosure

NOTE:

As is stated in the letter to the Deputy Attorney General and as we have pointed out in previous communications to officials of the Department of Justice, Weisberg is a prolific and notorious critic of the Warren Commission, the FBI, etc. His criticisms have included slanting of the truth and outright lies.

So far as the Ferrie material is concerned, Ferrie died in February, 1967. The 55 pages of information about him which were withheld from public disclosure contained allegations, hearsay, and rumor [REDACTED]. This information was withheld in 1965, two years before Ferrie's death. The previous communications to Department officials which were written following Ferrie's death took the position that we had no objection to the release of this information to the public; however, the final decision in this regard was a decision to be made by the Department of Justice.

Regarding the photograph mentioned in Item 3 above, informal discussions with Mr. Carl Eardley, Deputy Assistant Attorney General, show the Department feels that it would be difficult, if not impossible, to sustain in court a refusal to furnish copies of material the subject matter of which is already available to the public.

The Deputy Attorney General

The receipt referred to in Item 4 above was made out for a missile. The "missile" consisted of two small fragments of lead recovered from the head of President Kennedy.

Relative to the autopsy photographs mentioned in Item 5, the Laboratory has never had in its possession or custody any of these photographs. This material has also been co-ordinated with the Domestic Intelligence and General Investigative Divisions. Both Divisions advise that they have never had custody of the autopsy photographs.

Material set out above concerning Ferrie and background on Weisberg compiled and furnished by Domestic Intelligence Division.

MEMO, ALL EMPLOYEES

November 22, 1963

EMPLOYEES, DALLAS DIVISION

OFFICE: 12th Floor, 1114 Commerce St., Dallas, Texas 75202 TEL: RI 1-1211

NAME ADDRESS TELEPHONE

SUPERVISORY STAFF:

Shanklin, J. Gordon, SAC	6419 Preston Rd., Apt. 8	LA 1-5831
Clark, Kyle G., ASAC	6250 Konwood	TA 7-4754
Loeffler, Joseph J. #1 Supv.	10433 Sinclair	DA 7-7561
Howe, Kenneth C. #2 Supv.	3816 Bryn Mawr	EM 8-5969

HEADQUARTERS AGENTS:

2.	Abernathy, Joe B.	4150 Willow Grove Rd.	FL 2-5760
4.	Almon, John V.	11360 Gatewood	DA 8-1133
3.	Anderson, Robert J.	1734 Loree	DA 7-5317
4.	Anderton, James W.	8871 Liptonshire Dr.	DI 8-4215
1.	Barrett, Robert M.	3314 San Marcus St.	BR 9-5887
2.	Bookhout, James W.	7048 Cornelia Lane	TA 3-5846
1.	Bray, Allan D. (On transfer in from New Agents' Training)		
1.	Brown, Charles T., Jr.	916 Beechwood Dr. RICHARDSON	AD 5-3016
4.	Brown, W. Harlan	3142 Satsuma Dr.	CH 7-7816
4.	Butler, Robert P. (On transfer in from Denver) <i>8660 Lexington Ct. AD 1-66</i>		
1.	Clements, Manning C.	3736 Glencoe, Apt. 104	TA 4-4354
1.	Drain, Vincent E. J.	5031 Cedar Springs, Apt. 101	LA 6-0210
3.	Eckenrode, Raymond C.	11027 Genetta	BR 9-7135
3.	Ellington, Alfred C.	613 Aqua Drive	DA 7-0058
3.	Gemberling, Robt. P.	7106 Clomson Dr.	DI 8-3906
3.	Griffin, Will Hayden	3228 Perryton	FE 7-7440
2.	Hall, C. Ray	6542 Ellsworth	TA 3-5616
2.	Hanley, Joseph J.	2014 W. Five Mile Parkway	FE 9-9896
2.	Harrison, Richard E.	9016 Hackney Lane	DI 8-6895
4.	Heitman, Wallace R.	1110 Elizabeth Lane, RICHARDSON	AD 5-0926
3.	Horton, Emory E.	807 Blue Lake Circle, RICHARDSON	AD 5-8662
4.	Hosty, James P., Jr.	11018 Gonetta	BR 9-4084
4.	Kuykendall, Edwin D.	7428 Wentwood Dr.	EM 1-5803
1.	Lee, Ivan D.	9640 Livenshire Dr.	DI 8-0373
3.	Lish, Robert C.	6930 Kenwood	TA 4-3876
4.	Neeley, Alfred D.	7403 Centenary	EM 1-4574
2.	Newsom, Milton L.	605 Greenleaf Dr., RICHARDSON	AD 5-6492
4.	Odum, Bardwell D.	8727 Fawn Dr.	DI 8-3165
2.	Perryman, Curtis L.	8118 Garland Rd.	DA 7-1393
2.	Pinkston, Nat A.	2106 Van Cleave	FR 1-8325
1.	Robertson, Leo L.	3533 Greenbrier Dr.	EM 8-5780
1.	Swinford, James W.	7216 Gaston Ave., Apt. 123	DA 7-4491
3.	Thompson, Gaston C.	6312 Overlook Dr.	EV 1-2011
2.	Underhill, Carl E.	3711 Cragmont	LA 8-9876
3.	Williams, J. Doyle	3307 Lancelot Dr. <i>29-03-5612</i>	FL 2-6472
1.	Wilson, Gary S.	3309 Santa Teresa	BR 9-1509
3.	Wulff, Paul E.	4159 Willow Grove Rd.	FL 1-0929

Number by name indicates supervisory desk to which Agent assigned.

All addresses at Dallas unless name of city set out in address.

11/25/63 ... 717-2731

BA
57

The Deputy Attorney General
100-351938-
Director, FBI

- 1 - Mr. W. C. Sullivan
- 1 - Mr. Rosen
- 1 - Mr. C. D. ... 3, 1970

- 1 - Mr. Schutz
- 1 - Mr. Whitson

FREEDOM OF INFORMATION ACT

Reference is made to your letter of December 11, 1970, and to its attachments which pertain to requests from Mr. Harold Weisberg for additional information concerning the assassination of President Kennedy.

Mr. Weisberg's requests require extensive research and inquiries of our field divisions, which are being conducted expeditiously. When the results of research at FBI Headquarters and in the field have been analyzed, you will be furnished our comments.

MAILED 2
DEC 16 1970
COMM-FBI

ETP ... HC
12-31-70 3FA/...

LE:as
NOTE:

The request received by the Department for information from FBI files is from Harold Weisberg, a man who has written several books critical of the Warren Commission, the FBI, Secret Service, police agencies and other branches of the Government relating to the assassination investigation. His writings have contained inaccuracies, falsehoods and deliberate slanting of facts to fit his purpose. He was one of ten employees fired by the State Department during 1947 because of suspicion of being a communist or having communistic sympathies. Later he was allowed to resign without prejudice, but was not restored to his former position. A check of Portland, Minneapolis, Dallas and New Orleans files is necessary to be certain we can give the Department complete information on Weisberg's questions, which relate to possible cropping or editing of film rolls by the FBI. The films in which Weisberg is interested were taken at various times by private citizens and also some professional TV film from New Orleans.

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

MAIL ROOM TELETYPE UNIT

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Handwritten signatures and initials: WJ, R. Jones, WOS, etc.

Memorandum

TO : Mr. J. Edgar Hoover
Director, F.B.I.

DATE: Dec. 11, 1970

FROM : Richard G. Kleindienst
Deputy Attorney General

SUBJECT: Freedom of Information Act: Harpold Weisberg

Attached is a copy of a request submitted by Mr. Harold Weisberg under the Freedom of Information Act for access to information relating to the assassination of President Kennedy.

It would be appreciated if you would give me your comments and recommendations regarding this request.

4 ENCLOSURE

31 DEC 14 1970

LETTER TO DAG
12-16-70
LW:ac

NOT RECORDED
28 JAN 6 1971



an & Harold Weisberg

Coq d'Or Press ROUTE 8, FREDERICK, MD. 21701

Code 301/473-8186

12/2/70

Mr. Richard Kleindienst
Deputy Attorney General
The Department of Justice
Washington, D.C.

Dear Mr. Kleindienst,

In the course of my own investigations of the Kennedy assassination I have located and spoken to the owners of two amateur motion pictures of Lee Harvey Oswald being arrested in New Orleans, La., on August 9, 1963, and have evidence of a third person, possibly in an official capacity, also taking pictures of this and the picketing that preceded it. In all cases, the National Archives reports it does not have the film.

In the first two cases I have been informed that the film was given to the FBI, which returned edited copies. I seek copies of all this film, for which I enclose a DJ-115 form and check. Also, all relevant reports except as noted.

One case involves one John Martin, who voluntarily took his entire roll of vacation film to the Minneapolis office of the FBI. The National Archives informs neither exists no record in its files of either this Jack Martin or his film.

The second case involves the Doyle family, Mr. and Mrs. J. Pat and son Jim and their friends the Matt Wilsons, of Portland, Oregon. One report of this is in Warren Commission file CD6, page 444. Four others are CD30:6-9. None of these five reports says the film was given to the FBI or returned. Therefore, I assume there are other reports, including of comment or analysis of what the film shows. I would like any and all reports besides those above listed.

Also, various reports in my possession and official descriptions of the professional TV film (WDSU-TV and WWL-TV) in the National Archives disclose that more than the then-existing prints were made and shown by FBI agents for various purposes, including to establish the identity of a second man helping Oswald, one other than Charles Hall Steele, Jr. None of these pictures exist in the National Archives. Steele confirmed to me the existence of this third man and the wrapper of the copy of the WDSU footage at the National Archives says it shows this person, which it does not. Again there is the presumption of editing and the fact of the existence of still prints of this other man. I seek copies of these prints, all relevant reports and access to the unedited footage from WDSU, whose permission I have. WDSU permitted me to copy the footage returned to them. Johann Rush, the photographer, says he made 17 prints. The government seems to have obtained this footage on two different occasions, from the records I have.

The charges here will exceed the minimum. If you will inform me of the extra charge, I will send a check.

Sincerely,


Harold Weisberg

1011-3111
The Deputy Attorney General

December 21, 1970

- 1 - Mr. Sullivan
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. Shroder
- 1 - Mr. Hanlon
- 1 - Mr. C. D. Brennan

Director, FBI

FREEDOM OF INFORMATION ACT

Reference is made to your letter of December 11, 1970, and our reply of December 16, 1970, relating to requests from Mr. Harold Weisberg for information relative to the investigation of the assassination of President John F. Kennedy.

Mr. Weisberg's formal requests (NY-110) ask for "Film and relevant reports of L. H. Oswald's literature distribution and arrest in New Orleans, 8/08, taken by Jim Doyle, John Martin, WDSU-TV and WWL-TV photographers and by an unknown person, prints of WDSU film made to show third man assisting Oswald, as further described in attached letter." In addition, Mr. Weisberg requests "All reports on, of or about and interviews with James Powell, Army Intelligence, who took a picture or pictures in Dealey Plaza at the time of the assassination of President Kennedy. . . I would also like to have access to any other such pictures."

The circumstances concerning the taking of pictures in New Orleans on August 9, 1963, by Jim Doyle, the 14-year-old son of J. Pat Doyle of Portland, Oregon, are set out in Commission Documents No. 6 and No. 20.

The film contained a few shots of Oswald at the time of his arrest, but it also contained personal pictures of the Doyle party. Doyle requested return of the film, and it was returned to him on March 10, 1964. This film was not furnished to the Commission because the arrest had been completely documented, the arresting officer had been interviewed, and other film was available regarding the incidents leading up to the arrest of Oswald.

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DEC 31 1970

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- Tolson _____
- DeLoach _____
- Mohr _____
- Bishop _____
- Casper _____
- Callahan _____
- Conrad _____
- Felt _____
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- Tele. Room _____
- Holmes _____
- Gandy _____

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NOTE: See Page 3

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The Deputy Attorney General

It is suggested that Mr. Weisberg obtain prints of the Doyle film from Mr. J. Pat Doyle, whose last known address was 1107 S. E. 123rd Avenue, Portland, Oregon.

Regarding the film which was exposed by John Martin, 1752 Iglehart, Apartment 4, St. Paul, Minnesota, and which Weisberg says is not in the Archives, it should be noted that the film appeared to show a group of Cubans on a street in New Orleans after Oswald's arrest on August 9, 1963. The film was viewed by the New Orleans Office of the FBI and was found to contain nothing of value to the investigation. The film was returned to Martin on January 28, 1964. No mention of Martin was made in reports to the Commission. It would appear that Weisberg should contact Martin if he desires prints of this film.

With respect to the photograph taken by James W. Powell, Special Agent, Region II, 112th INTC, Army Intelligence Corps, Dallas, Texas, he was interviewed by a Special Agent of this Bureau at Dallas, Texas, on January 3, 1964. Mr. Powell stated that on November 22, 1963, he had taken a photograph of the Texas School Book Depository in Dallas. He advised that approximately thirty seconds following the shots fired at President Kennedy, he was approximately one-half block east of the intersection of Elm and Houston Streets. He then ran to the southeast corner of the intersection and, seeing some people pointing to the School Book Depository, took one photograph of the building utilizing a Minolta 35 millimeter camera. Mr. Powell turned this photograph over to his superior, Lieutenant Colonel E. E. Boyd, in the form of a Kodachrome transparency, who thereafter furnished it to the FBI at Dallas, Texas, on December 31, 1963.

The photograph depicted the corner sixth floor window of the Texas School Book Depository and boxes stacked in formation inside the window. The photograph was returned to Mr. Powell on January 20, 1964. Consequently, it would appear Mr. Weisberg should contact Mr. Powell if he desires prints of this film.

Mr. Weisberg has sought in the past to obtain from the National Archives prints of the professional television film prepared

The Deputy Attorney General

for WLF-TV and WVL-TV in New Orleans. Mr. Marion Johnson of the National Archives stated on December 20, 1978, that he has told Weisberg that because of the copyright laws, Weisberg should get written authorization from those television stations before the National Archives can provide him with prints.

The details of the furnishing to the FBI of duplicate copies of these films are set out, together with the pertinent interviews, variously, in Commission Documents Nos. 9, 78, and 123. The films are enclosures to Commission Documents Nos. 595 and 596.

All of the information in the Commission Documents regarding the television films is available to the public, and there would appear to be no reason why Weisberg could not get prints from the film if he complies with the request of the National Archives that he present a written authorization from the television stations.

Mr. Weisberg's request regarding film exposed by an unknown person is too vague to research.

NOTE: The request received by the Department for information from FBI files is from Harold Weisberg, a man who has written several books critical of the Warren Commission, the FBI, Secret Service, police agencies, and other branches of the Government relating to the assassination investigation. His writings have contained inaccuracies, falsehoods, and deliberate slanting of facts to fit his purpose. He was one of ten employees fired by the State Department during 1947 because of suspicion of being a communist or having communistic sympathies. Later he was allowed to resign without prejudice, but was not restored to his former position. A check of Portland, Minneapolis, Dallas, and New Orleans files was necessary to be certain we can give the Department complete information on Weisberg's questions, which relate to possible cropping or editing of film rolls by the FBI. The films in which Weisberg is interested were taken at various times by private citizens and also some professional television film from New Orleans.

That set out above sets forth our response indicating the information Mr. Weisberg requests is available to him from other sources. Consequently, it is being suggested he seek this information from those sources.

ADDENDUM TO JUNE 13, 1983, AFFIDAVIT OF HAROLD WEISBERG

172. After I completed this affidavit I obtained proof of the truthfulness of my allegations relating to New Orleans FBI SA Clifford Anderson's declaration pertaining to his alleged search for David Ferrie records. This is also to say that I then obtained proof of the FBI's and Anderson's intent not to be fully informative and responsive, of their intent to deceive, mislead and misrepresent, and of their intent not to be honest and not to make proper searches while attesting to "exhaustive" searches.

173. I received a copy of a record that was disclosed to another requester but is still withheld from me in this litigation. This record exactly fits the description I provided in earlier affidavits that, characteristically, were entirely ignored. Anderson did confirm that there had been a neutrality act file on Ferrie, which I alleged. I also referred to other Ferrie records but in his declaration in pretended response Anderson made no reference to them. I had provided the number of a file in which another copy was filed, 105-1456 FRD. Anderson still did not produce the record he admits finding in this 105-1456 FRD file. I then stated that inevitably, from standard FBI practice, Anderson and the FBI knew where to find other and existing copies if the one that I referred to had been destroyed. I raised questions about the truthfulness of Anderson's attestation to destruction and I stated this New Orleans 105-1456 FRD file pertains to anti-Castro activity. In referring to Anderson's phrasing, which I stated was not really his but was that of FBIHQ, I described it as "loose language" that for an expert like Anderson is "imprecise if not evasive." I also stated that Anderson has a record in my litigation of swearing to whatever he is told to swear to by FBIHQ without regard to what he knows.

174. The FBIHQ copy of a New Orleans report in its 105-1456 FRD file

disclosed to another confirms all that I attested to. It also raises substantial questions about Anderson's untruthfulness and intent to deceive, mislead and misrepresent to this Court.

175. "FRD" represents "Frente Revolucionario Democratica." The New Orleans title also includes "aka," given as "Cuban Democratic Revolutionary Front," "Friends of Democratic Cuba" and includes an "etc." The et cetera includes a number of persons who are named and on whom there also are records. In some instances their file numbers are listed.

176. Distribution to and the existence of pertinent records in other field offices also are indicated.

177. The FBIHQ serial number on this file indicates that there are many pertinent records in it, not just the one to which Anderson attested. (I have knowledge of others that are disclosed, but not to me, having seen this one.)

178. Not just David Ferrie but all of the organizations and all the persons mentioned (meaning those names not obliterated) figure in all investigations of the JFK assassination, including those of the FBI, the Warren Commission and Jim Garrison, and thus all are within my requests. Pertaining to Ferrie, Anderson claimed making a search that was not and could not have been made for this litigation. He and Phillips attested that it was made in this litigation.

179. Although this record was classified Secret and claimed to be exempt from automatic downgrading, which is not supported by its content, and it was first disclosed in 1978, albeit then still withheld from me, no claim to exemption was made. It just was not included in any search. The entire file is pertinent.

180. Three copies were sent to FBIHQ for its main file 105-87912 and a fourth FBIHQ copy was sent for its 105-89923 file. This establishes that at FBIHQ any missing New Orleans copy could be replaced from not fewer than two different

files, as could also be done from the other field offices and agencies to which copies were sent and are listed. This is precisely what I had attested to.

181. The reason for Anderson's imprecise language that I described as "loose" and "imprecise if not evasive" is apparent once a copy of this record is examined, and this, I believe, accounts for his not providing it after he located a copy. This also accounts for FBIHQ's, particularly its FOIPA branch's, failure to provide their readily accessible copies. More copies were filed in New Orleans than Anderson's supposedly first-person attestation includes.

182. Moreover, still another copy was made for and filed in still another New Orleans file the identification of which is removed from this copy provided to another requester. No claims to exemption are noted on the copy provided to him so the claimed reason for this withholding is not known to me.

183. As without possibility of question Anderson knew, if as he swore he examined any copy of the record I referred to, two copies of it were filed in 105-1456 FRD, not the one to which he attested. He thus could easily swear that a copy was destroyed and not provide any record of its destruction because the second copy survives. (It is common FBI practice to note destruction of duplicates on remaining copies.) He could also swear in seeming safety that apparently the destroyed copy was not indexed because the destroyed copy would not be the indexed copy. And he made no mention in his declaration of any filing under another caption, where it also could have been indexed.

184. The subject matter of this file, its extensive routing inside and outside the FBI and the persons, organizations and activities mentioned in it leave it without doubt that an experienced FBI SA like Anderson and his FBI^{HQ} counterparts knew immediately that all copies of it simply would not be destroyed.

185. Bearing on FBIHQ intent, this file was under review, for disclosure,

a second time at approximately the time FBIHQ was telling Anderson what to swear to - which it now is clear means telling him to swear to what is not true, to what deceives, misleads and misrepresents, and not to provide it.

186. Other records in the same file inevitably refer to other pertinent persons and organizations and thus it is inevitable that other individual records, including those referring to Ferrie, also exist in other known and easily searched files. In FBI practice, those files and offices the author of the report intends copies for are indicated by him and others are added at FBIHQ. Depending on their content, other individual records in this file were routed to other field offices. There also are other FBIHQ files in which other records in this New Orleans file also are duplicated.

187. It is entirely improbable that there is but a single reference to Ferrie in this New Orleans 105-1456 FRD file because he was an active member and because one of his "boy friends," Layton Martens, then a minor, worked for FRD and also was picked up by the police outside the residence of the titular leader, Sergio Arcachia Smith. He and Martens also figure in all official investigations. Martens also was charged with perjury in Garrison's investigation. During that period Martens stayed in touch with the New Orleans FBI.

188. The FBI was well aware of the pertinence of this file to my request. Moreover, the FBI provided information from it to the Warren Commission.

189. Other persons who figured in all official investigations and are pertinent in this litigation also are mentioned in this New Orleans file.

190. One of these other persons represents an area of potential embarrassment to the FBI that I have not indicated earlier. Guy Banister was a former FBI Special Agent in Charge of one of its major divisions, Chicago. He was an incorporator of this group. He, too, figures in all official investigations.

191. This group also was connected with the CIA. Just before the Bay of Pigs the CIA required it, the major ultraconservative anti-Castro outfit, to combine with the trade-union anti-Castros. The CIA got them together at the Skylark Motel in Miami about a month before the Bay of Pigs, knocked their heads together until they agreed, and then supported and financed the merged group under the name of the Cuban Revolutionary Council (CRC). It was to provide the CIA's government in exile if the Bay of Pigs operation had not failed.

192. The CRC had the address 544 Camp Street in New Orleans. Oswald also used that return address on some of his literature. The Warren Commission was never able to get a copy of this from the FBI, and it did try. In the end it obtained a copy from the Secret Service. In its "no stone unturned" investigation the FBI in New Orleans never did get around to telling FBIHQ or the Warren Commission that 544 Camp Street was the very building in which Guy Banister had his offices. It also never reported that Ferrie, too, worked in Banister's office. (This investigative brilliance, together with the joke of a New Orleans investigation of the CRC, was the work of the case supervisor, SA Ernest Wall. He managed to report his investigations in reports of a mere six and seven lines.)

193. Consistent with all of this, when the New Orleans FBI learned that the Secret Service was conducting its own investigation of the printing of Oswald's literature, it immediately applied pressure to have the Secret Service abandon its investigation. When the printer said it was not Oswald who picked up the printing, the FBI told the Warren Commission the opposite, that it was Oswald.

194. If Oswald had been a paid FBI informer, of which there is no evidence, although this allegation was made in Dallas, the FBI's reaction to this Secret Service investigation could not have been more immediate, forceful and close to hysterical.

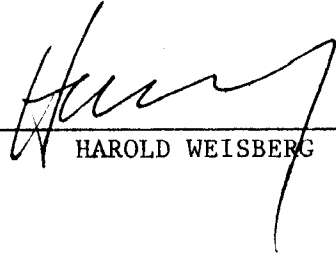
195. I know of no FBI investigation to determine why Oswald, the self-proclaimed pro-Castroite, would use the return address of the largest and CIA financed and supported anti-Castro group in New Orleans. The FBI decided that Oswald was pro-Castro despite all the evidence that this was merely a cover, so it never investigated to try to learn why the ostensibly pro-Castroite Oswald would try to invite pro-Castroites to get themselves beaten up. .

196. This is not unusual. Oswald and Ferrie ~~was~~^{were} in the New Orleans Civil Air Patrol (CAP) together. The FBI never conducted any investigation to determine whether they had any relationship, then or later, not even when it knew that Ferrie fled New Orleans the day of the assassination, as soon as Oswald was identified in Dallas.

197. Likewise, although Ferrie took New Orleans CAP boys to Keesler Field, Biloxi, Mississippi, and the FBI knew that Oswald took advanced radar training there (with virtually all the records of it suffering a mysterious disappearance), it conducted no investigation to determine whether there was or could have been any relationship between Ferrie and Oswald when Oswald was a Marine and at Keesler Field.

198. As I attested earlier, I have the notes of a reporter who was at the FBI New Orleans office during the Garrison investigation at what amounted to anti-Garrison parties and he reports the presence there at that time of David Ferrie. None of this is indicated in any report the FBI disclosed to me.

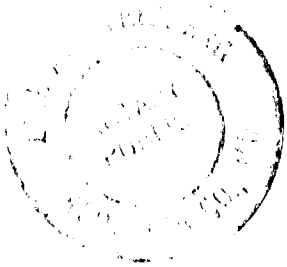
199. In addition to addressing the untruthful, deceptive, misleading, misrepresentative and evasive nature of Anderson's referred-to declaration, I intend in the immediately preceding Paragraphs to indicate possible FBI motive for not making good-faith searches and for FBIHQ to draft and Anderson to swear to a declaration of this character..


HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 17th day of June 1983 Deponent Harold Weisberg has appeared and signed this addendum to affidavit of June 13, 1983, first having sworn that the statements made therein are true.

My commission expires July 1, 1986.



Lillian Weisberg
NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

CLASS. 1-2-4-2003
REASON - 2781
DATE OF REVIEW 12-14-09

~~SECRET~~ SECRET

AIR TEL - AIR MAIL - REGISTERED

To: Director, FBI
From: SAC, New Orleans
Subject: CHANGED
FRENTE REVOLUCIONARIO DEMOCRATICO (FRD),
aka Cuban Democratic Revolutionary Front,
Cuban Revolutionary Front,
Friends of Democratic Cuba, Inc.
IS - CUBA

Date: 2/7/78
APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP (S) OF DATE 11-12-1978

1 copies made

for review at FBIHQ by

HSCA re 3/14/78

The title is being marked "CHANGED" to add "Inc." to the name "Friends of Democratic Cuba," which is the correct title as set forth in the charter of that organization.

2 copies made

for review at FBIHQ by

Re New Orleans letter to Bureau 1/19/61, New airtels to Bureau 1/20/61 and 1/27/61, Bureau letter to New Orleans 1/19/61, and Bureau airtel to New Orleans 1/24/61.

HSC-A Committee
Re: Boston
JTA/2 4/26/77

Transmitted herewith are the original and three copies of a letterhead memorandum dated and captioned as above. Also enclosed for the Bureau are four Auto-stats of the Articles of Incorporation of the Friends of Democratic Cuba, Inc.

1 copies made

for review at FBIHQ by
HSCA re request.
(See Bufile #62-117200)

One copy of the enclosed letterhead memorandum is being furnished to the Miami Office for information inasmuch as subject organization has its main offices in the territory covered by the Miami Division.

- 4 Bureau (Enclosures 8) (AM - Registered)
 - (3) - #105-187912
 - (1) - #105-89923
- 1 - Miami (Info) (Enclosure) (AM - Registered)
- 1 - New York (Info) (Enclosure) (AM - Registered)
- 3 - New Orleans
 - (2) #105-1456 MCT-46
 - (1) [redacted]

Classified by
Declassify on: OADR 2/15/78

EX 101

~~SECRET~~ SECRET
ENCLOSURE

2 FEB 8

1 - New Orleans
1 - Miami
2-17-61
file cc of airtel & memo
64-29230 (Gatlin)

5-91912
NAT. SEC. 16-2
10-57912