

APPENDIX
VOLUME II (Pages 269-532)

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

No. 79-1700

RECEIVED

FEB 19 1980

CLERK OF THE UNITED
STATES COURT OF APPEALS

HAROLD WEISBERG,

Plaintiff-Appellant

v.

CLARENCE M. KELLEY, ET AL.,

Defendants-Appellees

On Appeal from the United States District Court for the
District of Columbia, Hon. John Lewis Smith, Jr., Judge

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
 Plaintiff) Civil Action
)
 v) No. 78-249
)
 CLARENCE M. KELLEY, et al.,)
)
 Defendants)

FILED

FEB 15 1979 /

O P I N I O N JAMES F. DANEY, Clerk

This is an action arising under the Freedom of Information Act wherein the plaintiff, Harold Weisberg, seeks disclosure of worksheets and records relating to the processing, review and release of the material on the assassination of President John F. Kennedy, made public by the Federal Bureau of Investigation on December 7, 1977 and thereafter. On April 12, 1978, 2,581 pages of worksheets were released to plaintiff pursuant to this request. Certain information was withheld pursuant to Title 5, U.S.C. §§ 552(b)(1), (b)(2), (b)(7)(C), (b)(7)(D) and (b)(7)(E). The matter is before the Court on cross-motions for summary judgment.

Exemption 1 of the Freedom of Information Act, (FOIA), protects from disclosure materials that are:

- (1) (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order.

Two affidavits submitted by defendants state that the deleted information was supplied by foreign police agencies, related to specific intelligence methods, and was produced under a promise of confidentiality. Defendants re-reviewed

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the withheld material pursuant to the standards set forth in Executive Order 12065 which became effective December 1, 1978. It was determined that the unauthorized disclosure of this material reasonably could be expected to cause at least identifiable damage to the national security. The affidavit then further described that damage.

The legislative history clearly indicates that substantial weight is to be accorded to agency affidavits setting forth the basis for its claims of exemption under subsection (b) (1). S.Rep. 93-1200, 93d Cong., 2d Sess. 12 (1974); Weisman v Central Intelligence Agency, 565 F.2d 692 (D.C. Cir. 1977). Here the FBI affidavits show that the documents are classified according to the proper procedural criteria and that they are correctly withheld under both Executive Orders 11652 and 12065.

There has been no showing of lack of good faith on the part of the FBI. On the contrary, the agency has been in communication with the plaintiff throughout the pendency of the proceeding and has released 2,581 pages in response to this request. The defendants have sustained their burden of showing that the withheld material is protected from disclosure under Exemption 1.

The agency has deleted file and symbol numbers related to the informant program and the administration thereof, claiming both Exemption 2 and 7(D). Not only do these numbers relate to the internal practices of an agency under Exemption 2, but release of the numbers could result in the disclosure of the identity of the informant, protected by Exemption 7(D).

The Supreme Court stated:

...the clear legislative intent [of FOIA is] to assure public access to all governmental records whose disclosure would not harm significantly specific governmental interests. Department of the Air Force v. Rose, 425 U.S. 352 (1976) at 365.

It is obvious that the public's interest in knowing the names of FBI informants is neither significant nor genuine when compared with the FBI's need to keep this information confidential. Therefore the numbers utilized by the FBI have been properly withheld pursuant to Exemptions 2 and 7(D).

Subsection (b)(7)(C) of FOIA was enacted to protect "investigatory records compiled for law enforcement purposes ...to the extent that the production of such records would ... (C) constitute an unwarranted invasion of personal privacy." Defendants have invoked this section to withhold names, background data and other identifying information involving third parties as well as the names of FBI agents who produced the worksheets. This exemption should be applied using the de novo balancing test, weighing the public's interest in disclosure against the individual privacy interest and the extent of invasion of that interest. Congressional News Syndicate v U.S. Department of Justice, et al., 438 F. Supp. 538 (D.D.C. 1977). Here the information pertains to individuals coming to the attention of the FBI who were not the subject of the investigation. The public interest in disclosing this information does not outweigh the privacy interests of these individuals. Ott v Levi, 419 F.Supp. 750 (E.D.Md. 1976).

The agency has invoked Exemption 7(D) to withhold the identity of confidential informants and the information supplied by them. This is consistent with the legislative history which indicates that the exemption was intended to protect the identity of the source as well as information provided by the source which might reasonably lead to disclosure of the source's identity. 120 Cong. Rec. S-19, 812 (November 21, 1974) (Remarks of Sen. Phillip Hart). In Church of Scientology of California v U.S. Department of Justice, 410 F.Supp. 1297 (C.D.Cal. 1976) the Court found that the purpose of (7)(D) is "to protect against disclosure of confidential information provided by any source." Id at 1303. This would include any source whether it be an individual, an agency or a commercial or institutional source. Therefore the material is exempt under subsection (7)(D).

The FBI has asserted Exemption (7)(E) to protect two investigative techniques from disclosure. This is consistent with the purpose of the exemption. Ott v Levi, supra.

Finally, the action must be dismissed as to defendants Kelley and Bell since the FOIA grants jurisdiction to the courts "to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant." Neither Kelley nor Bell are agencies and therefore are not proper parties to this action.

Accordingly, defendants' motion for summary judgment is granted and plaintiff's motion for summary judgment is denied.


United States District Judge

Dated: Feb. 15, 1977.

(P)

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FILED

UNITED STATES DISTRICT COURT FEB 15 1979
FOR THE DISTRICT OF COLUMBIA
JAMES F. DAVEY, Clerk

HAROLD WEISBERG,)	
)	
Plaintiff)	Civil Action
)	
v)	No. 78-249
)	
CLARENCE M. KELLEY, et al.,)	
)	
Defendants)	

ORDER

Upon consideration of defendants' motion for summary judgment, memoranda in support thereof and in opposition thereto, the entire record herein and oral argument of counsel, it is by the Court this 15th day of February 1979

ORDERED that defendants' motion for summary judgment is granted.

J. J. ...
United States District Judge

(N)

FILED: FEBRUARY 26, 1978

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

CLARENCE M. KELLEY, et al.,

Defendants
.....

JAMES B. ...
Civil Action No. 78-0249

MOTION FOR RECONSIDERATION AND CLARIFI-
CATION PURSUANT TO RULES 52(b) and 59
OF THE FEDERAL RULES OF CIVIL PROCEDURE

Pursuant to Rule 59 of the Federal Rules of Civil Procedure, plaintiff moves this Court to reconsider, alter, and amend the Order entered in this case on February 16, 1979 granting defendants summary judgment.

Pursuant to Rule 52(b) of the Federal Rules of Civil Procedure and the requirements established by Schwartz v. IRS, 511 F. 2d 1301 (D.C.Cir. 1975), plaintiff moves the Court to make additional findings of fact and conclusions of law clarifying the Court's Opinion entered in this case on February 16, 1979.

Specifically, plaintiff asks that the Court make the following findings:

1. At least three sets of worksheets pertaining to the FBI Headquarters' JFK assassination files exist but plaintiff has been given only one set. Thus, the defendants have not provided plaintiff with all worksheets coming within the scope of his request.

2. The affidavit of Bradley Benson does not state that he has examined the underlying documents which pertain to the allegedly classified notations made on certain of the worksheets provided to plaintiff.

3. Mr. Bradley Benson did not in fact examine the underlying documents which pertain to the allegedly classified notations made on certain of the worksheets provided to plaintiff.

4. The classification level on some of the allegedly classified notations made on worksheets differs from the classification level of the underlying documents pertaining to them.

5. The affidavit of Bradley Benson does not state that the allegedly classified information appearing on worksheets is not already public knowledge.

6. The affidavit of Bradley Benson does not state that he balanced the damage to national security against the public interest in disclosure as required by Executive order 12065.

7. The worksheets provided Weisberg were classified only after he filed suit and after he was mailed copies of them.

8. The allegedly classified notations on worksheets were not classified at the time of origination as required by the applicable Executive order, Executive order 11652.

9. Paragraph (9) of the April 28, 1978 affidavit of Special Agent David M. Lattin failed to disclose that the worksheets were not classified at the time of origination as required by Executive order 11652 and instead misrepresented that ". . . they have been appropriately marked in accordance with EO 11652 and Section 4(A), and 28 C.F.R. 17.40, et. seq.

10. The affidavit of Bradley Benson does not state that the cooperation of the foreign police agencies whose identities have been excised from the worksheets under claim of national security is not already publicly known.

11. The cooperation of the Royal Canadian Mounted Police and other foreign police agencies with the FBI in the investigation of President Kennedy's assassination is already publicly known.

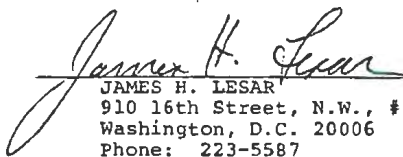
12. Providing plaintiff with documents which show what has already been disclosed, that the Royal Canadian Mounted Police cooperated with the FBI during the investigation of President Kennedy's assassination, will not cause identifiable harm to the security of the United States.

13. The affidavit of Bradley Benson does not state that the "intelligence methods" which are allegedly classified in the worksheets are not already publicly known.

14. Materials contained in the affidavits of Harold Weisberg submitted in support of plaintiff's motion for reconsideration show that the FBI has engaged in a pattern of bad faith conduct and dishonest representations with regard to plaintiff.

15. Under the decision of the Court of Appeals in Ray v. Turner, 587 F. 2d 1187 (1978), this court should afford plaintiff an opportunity for discovery and, after completion of discovery, should inspect the the records allegedly classified with the aid of a classification expert selected by plaintiff and the participation of plaintiff's counsel.

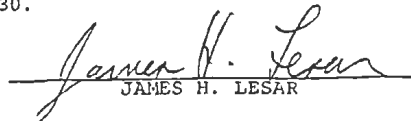
Respectfully submitted,


 JAMES H. LESAR
 910 16th Street, N.W., #600
 Washington, D.C. 20006
 Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of February, 1979, mailed a copy of the foregoing Motion for Reconsideration and Clarification Pursuant to Rules 52(b) and 59 of the Federal Rules of Civil Procedure to Mr. Emory J. Bailey, Attorney, U.S. Department of Justice, Washington, D.C. 20530.


 JAMES H. LESAR

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
: HAROLD WEISBERG,
:

Plaintiff

v.

Civil Action No. 78-0249

CLARENCE M. KELLEY, et al.,

Defendants
.....

MEMORANDUM OF POINTS AND AUTHORITIES

I. ALL WORKSHEETS WITHIN SCOPE OF REQUEST HAVE NOT BEEN PROVIDED

In the course of preparing a response to the affidavit of Special Agent Bradley M. Benson, plaintiff has learned that the set of worksheets which was given him on April 12, 1978 is not the only one pertaining to the JFK Headquarters files which were released on December 7, 1977 and thereafter. This was disclosed in the first instance by the affidavit of Benson himself, which describes the worksheets he reviewed as bearing classification stamps, whereas the copies provided Weisberg have none. In addition, this is evident from the fact that the worksheets are now said not to have been classified until April 27, 1978, when the set in Weisberg's possession was mailed to him on April 12, 1978.

In fact, plaintiff has now come across proof that there is a third set of worksheets, one which also differs from his own. Proof of this third set or worksheets comes from the files of another requestor. By comparing Exhibits 6 and 7 to Weisberg's affidavit of February 21, 1979, it can be seen that they differ in many particulars but are supposed to describe the same records. (Exhibit 6 was sent to Weisberg by another FOIA requestor, Mr.

Paul Hoch. Exhibit 7 was sent to Weisberg by the FBI)

It is apparent from this alone, that the FBI has not provided plaintiff with all the materials within the scope of his request.

II. FBI'S AFFIDAVITS ARE NOT WORTHY OF CREDENCE

The attached affidavits by plaintiff Weisberg show beyond any question that the affidavits submitted by the FBI are not worthy of the "substantial" (indeed "conclusive") weight accorded them by this court. The materials attached to Weisberg's February 14, 1979 affidavit would seem to establish that many, if not most of the excisions allegedly made on grounds on "national security" are consist of nothing more than hiding the initials "RCMP," which stand for "Royal Canadian Mounted Police." (See February 14, 1979 Weisberg Affidavit, ¶¶ 66-70 and exhibits 12-14) Exhibits 12-14 to Weisberg's February 14 affidavit demonstrate that the cooperation of the Royal Canadian Mounted Police with the FBI in investigation the assassination of President Kennedy has already been disclosed by the FBI's release of routing slips with this information on them. In addition, the fact that the Mounties cooperated with the FBI on this investigation has long been public knowledge. This information is available at the National Archives and Weisberg has himself published records which show the cooperation of the Mounties. (See February 14 Weisberg Affidavit, ¶¶ 99-107)

One would have to be imbecile not to assume that the Mounties cooperated with the FBI during its investigation. The claim that "revelation" of this cooperation extended by the Mounties would "cause identifiable harm" to the national security is ludicrous and makes a laughingstock of those who would so maintain.

There are other problems with the classification which demand that plaintiff be allowed to undertake discovery with respect to the FBI's claims, and that after that discovery has been completed,

the court should then consider whether or no in camera inspection with the aid of plaintiff's classification expert and attorney is necessary. Under the facts as they have now been developed, this is necessary if this Court is to comply with the decision of the Court of Appeals in Ray v. Turner, 587 F. 2d 1187.

For example, it is now apparent from Mr. Benson's affidavit that the worksheets were not classified until after plaintiff filed this lawsuit, a fact which is not in accordance with the provisions of Executive order 11652, which provides that classification is to occur at the time or origination. This in turn bears on the veracity and lack of good faith of the Lattin affidavit, which asserted that the proper procedures under Executive order 11652 had been followed. It is now apparent that they were not. This has left the Court in the position of having stated as fact what is not true.

Other questions are raised by the fact that the Benson affidavit does not state that he examined the underlying documents which pertain to the items of allegedly classified information on the worksheets. The underlying records do in some instances bear a classification level (or lack thereof) which is at variance with the "Confidential" classification level of the items on the worksheets.

Where an intelligence method is allegedly the basis for a claim of classification, the Benson affidavit proclaims that the loss of the method "would have a serious impact on the ability of the United States to obtain vital intelligence information." He does not state, however, that disclosure of the information on the worksheets would reveal an intelligence method not already known, or that it would result in the loss of that method. The likelihood that the FBI's claims in this regard are as spurious

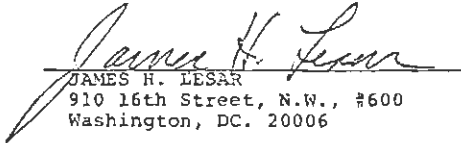
as its claim that it is necessary to excise the initials RCMP in order to protect national security. Thus one such claim allegedly made to protect an "intelligence gathering method" involves an internal FBI investigation of one of its own employees. It is highly unlikely that any method employed in such an investigation would be either unknown to the public or damaging to national security if made known.

III. CORRECTION TO PLAINTIFF'S FEBRUARY 14, 1979 AFFIDAVIT

Plaintiff's counsel did not complete his review of plaintiff's February 14, 1979 affidavit until Sunday, February 25, 1979. On that date he had a discussion with his client about the affidavit and a statement in paragraph 15 which counsel thought was in error. After some discussion of this matter, including reference to specific language in the Benson affidavit, plaintiff agreed that he made a misstatement in asserting that: "Reference is to the information in the files, not the worksheets."

Such a misstatement occurred because of the time pressures under which plaintiff has had to draw his affidavits in this case and the tremendously disadvantaged circumstances under which plaintiff and his counsel work, including the lack of money or other resources and the 50 miles which separate them. Plaintiff's serious medical problems, other obligations, and lack of assistance all add to the difficulties which have made it impossible for plaintiff's counsel to review the affidavits his client has drawn and make appropriate corrections and revisions. Had this court not denied a motion for a short extension of time requested by plaintiff and the precipitously rushed out its opinion, this would at least in some degree have been different.

Respectfully submitted,


JAMES H. LESAR
910 16th Street, N.W., #600
Washington, DC. 20006

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED

11/17/78

JAMES F. DUNN, Clerk

.....
HAROLD WEISBERG,
Plaintiff,

v.

CLARENCE M. KELLEY, et al.,
Defendants.
.....

Civil Action No. 78-0249

AFFIDAVIT

My name is Harold Weisberg. I reside at Route 12, Frederick, Maryland. I am the plaintiff in this case. I seek withheld information relating to the assassination of President Kennedy and to the official investigation of that crime.

1. I have previously informed the court of my professional experiences which include those of intelligence analyst, investigator and investigative reporter.

2. I have spent more time merely reading previously withheld FBI records than is required for earning a doctor of philosophy degree. The time I have devoted to studying, researching and investigating and responding to FBI affidavits and other allegations also is enough for the earning of an advanced degree.

3. Because FBI practice and motive for withholding bear on the credibility of the Benson affidavit and because the FBI's actual record in such matters is not generally known and understood - because in fact the FBI has much to hide that with compliance in this instant matter it may not be able to continue to hide - I provide explanations from my extensive prior experience and the knowledge I have obtained during the long work in which I have been engaged. In another cause the FBI itself has described my knowledge as unique.

4. What is normal FBI practice in cases that confront it with what it does not want to face or with its record in such cases that it does not want to be exposed and understood is not consistent with the public image the FBI has created with great care, often by clandestine means. True to Orwell, its propaganda efforts were under "General Crimes." It developed one of the more sophisticated and successful official leaking operations in Washington under the cover of never reaching conclusions in its reports and of not making "comment." To be able to

pretend it did not engage in the propaganda in which, covertly, it did engage, it generated false paper it could produce for any occasion. My files are rich with such adventures in case control and opinion control.

5. While as a generality the FBI prefers to avoid direct and outright lying, it has a long record of falsification by various means. This extends to false swearing under oath. Deceptions, misrepresentations, exaggerations, obfuscations and efforts to intimidate the courts (as with false "national security" claims) are commonplace within my experience. All these wrongs exist in the January 22, 1979, affidavit of FBISA Bradley B. Benson in this instant cause.

6. In the FBI's major case investigations I have examined extensively and with care over a period of a decade and a half, one standard means of "proving" its virtually ordained preconceptions is to avoid the crux of the evidence while expending great effort and compiling enormous files on the irrelevant. It then boasts of the success of its investigations with statistics of hours and money invested, files compiled and the like. As an example, incredible as it may appear, in its investigation of the assassination of President Kennedy, initially the FBI did not want the autopsy protocol and the photographs and X-rays of the autopsy examination. The FBI cannot control pictures and X-rays, but it can control the words on its own paper. It generates, and in this case generated, the paper it desires to suit its preconception. In this it totally omitted incontrovertible autopsy and other evidence not congenial to its preconceptions. Having avoided all of the autopsy evidence, the FBI was able to file a large five-volume report ordered by the President without any mention of the known wound in the front of the President's neck. Although it is not widely remembered, a third person, James T. Tague, was wounded during the assassination and a bullet is known to have missed the motorcade. There is no mention of Tague or of any shot that missed in all five volumes of the allegedly definitive FBI Presidentially-ordered report. If there had been the FBI could not have attributed the assassination to a lone assassin, to whom it did attribute three shots without any accounting of the above shooting. When I raised this and several other questions relating to the most basic evidence with the FBI in 1966, it did not respond. Records disclosed with those the processing and release of which are at issue in this instant cause disclose an FBI inability to address those questions. (FBIHQ #62-109060-4132, routed to most of the top FBI officials of the period.) In the assassinations of President

Kennedy and Dr. Martin Luther King, Jr., the FBI avoided pictures of the scene of the crime, for example, and in my C.A. 75-1996 actually swore it had no pictures of the scene of the assassination of Dr. King. This was deliberate false swearing because the file allegedly searched discloses two separate sets of contemporaneous crime scene photographs given to the FBI plus a set taken by the FBI for the use of its Exhibits Section in making a mock-up for trial. Predictably, essential details are missing from the elaborate mock-up, the details captured in photographs. While many contemporaneous photographs of the scene and the actual shooting of President Kennedy were also forced on the FBI and there were some it could not avoid, in fact, the FBI refused even to look at some, avoided and misrepresented others, and to the degree possible kept knowledge of these photographs secret in field office files and out of FBIHQ files. Two recent illustrations are of motion pictures of which I learned as a result of records I obtained in litigation filed at about the time of this instant suit, C.A. 78-0322. In one case, which has achieved extensive attention recently as a result of work by others following my making that record available, it has become apparent that, whether or not Oswald was the assassin or an assassin of the President, there was more than a single moving object at the window from which the FBI alleges the crime was committed. Yet that FBI report, of November 25, 1963, states that this motion picture, taken by Charles Bronson, does not even show the building. Another motion picture was given, exposed but undeveloped, to the FBI. The cost of developing movie film was then about a dollar a reel. The FBI returned that reel undeveloped. In still another case, the unique motion pictures of the late Elsie (Mrs. John) Dorman, the FBI interviewed her and knew she took movies looking down on the assassination. It never obtained her movies. In 1967 I published an entire book on the FBI's avoidance of such relevant photographs.

7. Credibility, especially of an affidavit, which cannot be cross-examined and is generally all that is presented in FOIA cases, is very much an issue because courts tend to accept FBI affidavits as made only in good faith. In the preceding paragraph I have indicated some of the possible motives for withholdings that continue in this instant cause and for the unfaithful representations I find in the Benson affidavit and set forth in what follows.

8. The Benson affidavit is vintage FBI in what it does not say, in its

boilerplate and in what it does say that is not complete and sometimes is not truthful. It represents a deliberate effort to mislead and intimidate this Court.

9. Among the more serious of the many omissions of the Benson affidavit, which addresses allegedly proper and necessary "national security" withholdings, is any statement that what is withheld under claim of national security is not within the public domain. As I show below, much of what is withheld under claim to "national security" long has been within the public domain.

10. From my extensive experience I know that the FBI assigns personnel who are without subject-matter knowledge to the processing of records which hold the potential for embarrassment in these historical cases while not assigning those who do have subject-matter knowledge. The FBI has and keeps secret extensive indices it also does not consult in the processing of records in these historical cases. In this instant cause a single one of the special Dallas indices is of 40 linear feet of cards. Knowledge of the existence of these indices was withheld from the Department, even the appeals authority. (The indices are within my request in other cases. In both Kennedy and King cases the FBI remains silent and there has been no action on my appeals.) The automatic result, built-in by the FBI, is the withholding of what is within the public domain if only because those processing the records have no subject-matter knowledge and cannot consult these indices. In actual practice, even after I give the FBI xerox copies establishing that it withholds what is public, it continues to stonewall. It has not eschewed false and misleading affidavits with regard to its withholding of what is within the public domain.

11. I address Paragraph 10 of the Benson affidavit in particular because, unlike the boilerplate of generalized, irrelevant and conclusory representations that characterize the affidavit, it provides specifics I can address. It lists 13 Sections of the disclosed FBIHQ JFK assassination records a few of the worksheets of which "were found to contain classified data." By his wording Benson gives the impression to the Court that these are all the claims to classification made in all these hundreds of worksheets. This is not the case.

12. The factual inaccuracy and the imposition on the trust of the Court represented by this FBI adventure in misrepresenting and misleading is flagrant and easily detected. Particularly when the FBI is well aware of the examination

to which I subject its FOIA affidavits, this suggests that the FBI and Department counsel believe this Court is in their pocket and will rubber-stamp any allegation they make to this Court.

13. The Benson affidavit makes no reference to the underlying records. If the underlying records are not properly classified, then the worksheets are not properly classified. In fact, on this score also, by comparison with the underlying records, the Benson affidavit is not accurate and not truthful. There is either deliberate false swearing or what in a sense may be even worse, another manifestation of the contemptuous belief that this Court will sanction any FBI offense. Benson did not bother consult the records in question or he swore falsely if he did consult them. I provide proof below.

14. There is reason to credit the second alternative. However, this does not mean that falsifications are not also deliberate. When an expert witness provides an affidavit, it is a reasonable presumption that he has made a personal examination of the relevant records.

15. What Benson actually states is "(5) I have made a personal examination of these inventory worksheets utilized in the processing of files ... I have personal knowledge of the information set forth therein for which exemption (b)(1) ... is claimed." Reference is to the information in the files, not the worksheets. There is no way in which this can be ambiguity. Unless the "personal knowledge of the information set forth" comes from the underlying records, Benson does no more than rubber-stamp the worksheets.

16. The intent to deceive and misrepresent becomes clear in "(6) I have examined all the documents specified below and found that their classification is" proper.

17. Benson does not swear merely that "I have examined all the worksheets specified below." He refers to "worksheets" throughout but at this point he switches to the word "documents," clearly intending that it be taken as reference to the underlying records. However, there is but a single listing in the entire affidavit, that in Paragraph 10. In Paragraph 10 Benson is careful to refer to "worksheets," not "documents." His words are: "(10) The below-listed inventory worksheets were found to contain classified data. These worksheets are identified according to the file subject ..."

18. Unless there is the intent to deceive and misrepresent, there is no purpose in this redundancy in Paragraphs 5 and 6 and no purpose in the reference

to "documents" when there are no "documents specified below," only individual pages of worksheets. Of these Benson states what is not true, that he describes and justifies "each item classified in the worksheets." While he means only the relatively few in his list, which are a minuscule proportion of the (b)(1) classifications noted in the worksheets, of those he does list he provides no meaningful description. He has only conclusory and very generalized statements, made on the false pretense that stating anything further would endanger the "national security." Illustrations of the falsity of this claim follow below. I note this here because it bears on intent to mislead and deceive.

19. Also in Paragraph 10 Benson is not truthful in stating that "These worksheets are identified according to the file subject." He does not identify any one of the individual worksheets "according to the file subject." I believe this requires the explanation that follows.

20. Following his one tabulation Benson cites individual sheets of the worksheets by page numbers. There are no such page numbers on the copies provided to me. His worksheets and those provided in this instant cause are not identical.

21. All Benson's opinions offered in explanation of his tabulation are general, conclusory and misleading. They are also untrue and deceptive, as in his boilerplated allegation that disclosure of a tiny entry on a worksheet would "reveal cooperation with a foreign police agency." "Reveal" means to disclose what is not known. No such question is involved in this case. It is well known that police agencies of friendly powers cooperate with each other. It is well known that they in fact have an international organization to facilitate this boasted of cooperation. There is no prior time within my extensive experience in which the FBI has claimed that it was necessary to withhold the identification of the police agency whose information it withheld. To now it has included them.

22. In fact, when it suited FBI political purposes, information from foreign police often was not withheld and was used and disclosed extensively.

23. As a subject expert, this enabled me to prove that the FBI was withholding under FOIA what it had already disclosed. (It has made this claim for front-page news.) I have done this repeatedly in writing to the FBI and the Department's appeals authority and under oath in other cases without so much as a pro forma denial or any effort at refutation. In an effort to prevent my doing

that in this case, which is more than possible, Benson and the FBI have evolved this new generalized and conclusory formulation. Moreover, before courts prior to this Court, the FBI has identified many cooperating foreign police organizations. In a single current case, C.A. 75-1996, those include the Mexican police and similar Mexican agencies and those of Great Britain, Canada and Portugal that I recall. There are probably others. The FBI agreed to the Warren Commission's publication of information proving the cooperation that now, 15 years later, the FBI alleges an urgent need to withhold to avoid such catastrophes as the breaking of diplomatic relations, an actual Benson allegation. The Commission's Report expresses appreciation for such foreign cooperation. The FBI's records in the National Archives identify still other foreign police agencies and the information they provided is readily available to those who request it of the Archives. This includes espionage information and information about foreign intelligence defectors. This disclosure was approved by the FBI in 1965 and thereafter. Clearly within my extensive personal experience the special treatment and the special and spurious claim is reserved by the FBI for this Court.

24. I believe that selecting this Court for such an unjustified and entirely unnecessary extension of prior FBI claims to exemption and the FBI's misrepresentations are other indications of the FBI belief that this Court will take anything from it.

25. The alleged descriptions and amplifications of the items in the tabulation are utterly meaningless except to those who are looking for an excuse for unnecessary and harassing withholdings and require a figleaf. Moreover, Benson's descriptions and amplifications exist in a vacuum. The Court can cut the items in the list into individual pieces, throw them in the air, and then relate them at random with the Serials cited and it would make as much sense and have as much meaning. The Court would know neither more nor less, there is that little tangible meaning in Benson's affidavit.

26. Even Benson's ambiguities in his alleged explanations add little to his other deceptions, his "explanations" are so generalized and conclusory. That he is needlessly ambiguous is established in his very first item, on page 6 under the first of the Sections of his first breakdown. This is Section 170. Here he cites the withholding of "NR [Not Recorded] after 6845." On the next page his

boilerplate identifies the matter as the "non-recorded serial after serial 6845 and 6846." There is no non-recorded serial after serial 6846. Confusion is added by the worksheet entry "Referral to DCRU" (an internal Justice Department referral). Over this is lettered "No!" (After more than a year neither DCRU nor any other Department component has provided me with copies of numerous referrals to them that I can recall.)

27. It is improbable if not impossible that what is withheld under the worksheet entry for the Not Recorded Serial following Serial 6845 could "reveal" anything about any foreign police agency. The underlying record is an internal routing slip. Only five or six letters are withheld from the worksheet entry, which reads, "- - - - Routing Slip." (More relating to this follows below.)

28. As stated in Paragraph 19 above, Benson does not identify "according to the file subject," the opening claim of his Paragraph 10. Neither here nor at any other point in his affidavit does Benson provide the clear and published FBI file and subject identifications. I regard this as another possible manifestation of contempt for this Court and of the belief this Court will accept and approve anything from agencies like the FBI. There are no files described as Benson describes them in Paragraph 10, "JFK," "Oswald" and "Ruby." This unnecessary and confusing shorthand comes directly from pieces of paper added to the front of each volume for internal FOIA purposes.

29. I illustrate this with Exhibit 1, a slip clipped to the front of the first of the section of files in question. (Benson attaches no exhibits at all. I do, for the information of the Court.)

30. From Benson's affidavit the Court has no independent means of knowing which of the many "JFK," "Oswald" and "Ruby" files he cites. For example, I have been provided with two different "JFK" files from FBIHQ records under Order of the Court in C.A. 77-2155. There is no mention anywhere in the Benson affidavit of this second file on the JFK assassination. (There are still other "JFK" files.)

31. This strongly suggests that Benson went no deeper into those records and merely rubber-stamped what others had done, a belief reinforced by my further examination of his affidavit.

32. In fact, the FBI has unique identifications of the files in question. "JFK" is FBIHQ File No. 62-109060; "Oswald" is FBIHQ File No. 105-82555; "Ruby"

is FBIHQ File No. 44-24016.

33. In the FBI filing system of that period, 62 represented administrative inquiry - miscellaneous; 105 represented internal security with nationalistic tendencies; and 44 represented civil rights.

34. There is and was no secrecy about these FBI numerical file identifications. In addition to required publishings in the Federal Register, in August 1978 the FBI's Records Management Division published its Central Records Systems. Pages 4 and 5, printed in type too small for clear copying, clearly identify each of the FBI's 205 numerical classifications with their titles. 44 remains Civil Rights, so Ruby, the Oswald assassin, remains classified as Civil Rights. 62 includes administrative inquiry under the title "Miscellaneous - including Administrative Inquiry ..." (It should be noted that this is not a law enforcement file and that FOIA requires a law enforcement purpose.) 105 is now described as "Foreign Counterintelligence - Russia (formerly Internal Security) (Nationalistic Tendency - Foreign Intelligence) (Individuals and Organizations - by country.)"

35. An added reason for Benson's omission of the actual file identifications may be to obscure the fact that the FBI's investigation was not for a law enforcement purpose, as required by FOIA. As Director Hoover testified to the Warren Commission on May 14, 1964, "... there is no federal jurisdiction for such an investigation ... However, the President has a right to request the Bureau to make special investigations, and in this instance he asked that the investigation be made." (Page 98 of Commission Volume V.) Thus the file identification of 62, "Administrative Inquiry," rather than one denoting any law enforcement purpose, even of cooperation with the local police, who did have sole jurisdiction in both Presidential and Oswald murders.

36. The FBI has two proper ways of referring to and identifying the underlying records and the worksheets. Benson uses neither. Normal FBI practice is to use both. The previously cited FBI publication, Central Records System, is specific on FBI practice. The reasons for the system used include need for retrieval and the elimination of confusion. The FBI states that the basis for its "case filing system" is that where there is more than a single case subject of FBI interest "(I)n each situation separate files are created." (page 9)

37. Lack of the absolute identifications can lead to confusion because, in

addition to multiple files relating, for example, to the assassination of President Kennedy, each of the 59 field offices makes separate classifications and assigns its own file numbers. Benson's "JFK" is classified as a 62 case at FBIHQ but as an 89 case in Dallas. Benson's "Oswald" is a 105 in FBIHQ but a 100 in Dallas. The titles or captions, however, are consistent. Sometimes different words were used, sometimes FBI abbreviations instead of words, but they say essentially the same thing and permit identification. "IS - R - C" after "Oswald" denotes "Internal Security," "Russia" and "Cuba," which is the way that file on Oswald was titled at FBIHQ.

38. To illustrate this and to underscore Benson's radical departure from consistent FBI practice - no prior departures from it are within my experience - I use copies of the records from these particular files that I had to consult on a single day. Some, those with the "PLH" initials of my source, Paul L. Hoch, at the bottom, reached me by mail from California the same day I had to retrieve other copies from my own files to provide information desired of me by a person in Dallas, Texas. I came across the others as I was checking the list in Benson's Paragraph 10. Benson's departure from FBI practice and the resultant danger of confusion, as stated in Paragraph 37 above, will be apparent in this random illustration from records that, entirely by accident, I had to consult on this single day.

40. Exhibit 2 is an FBIHQ underlying record in this instant case. It bears the correct title. (Including the date of the crime is a variable, not always included.) The precise file number identification has been added. It is not "JFK" but 62-109060. The cross reference noted is 105-82555, not "Oswald." The document relates to the assassination and inquiry by the Warren Commission. However, no visible cross reference to any Commission file has been added.

41. Exhibit 3 is an FBI letter to the Commission's general counsel. The file number assigned is that on the assassination, 62-109060, and the cross filing is to the same 105-82555 file. Again, no cross reference to the Commission was added. While this kind of record, a letter, does not bear the usually typed-on title or caption, that is added in the reference to an earlier record. The means by which this is done is by citing the full title, not "JFK."

42. A year later on an internal FBIHQ document dealing with records relating to the assassination, although a new and more limiting subject is used to be precise and descriptive, the preexisting number for this file is used, 62-109090. (page 1 only, Exhibit 4) It should be noted that the eight-digit numbers are almost identical. They differ by a single digit only. This added possibility of misidentification is not deliberate on the FBI's part but it does underscore the need for using the FBI's precise and inflexible references to avoid confusion and error, as Benson does not. (Parenthetically, in paragraph 2 of Exhibit 4 FBI policy prior to the enactment of FOIA is stated as an "overriding policy favoring the fullest possible disclosure." The claims made in this instant cause and in the Benson affidavit are not consistent with the FBI's proud policy statement of more than 13 years ago.)

43. Attached as Exhibits 5 and 6 are two documents from the FBIHQ assassination file 62-109060 both of which are titled as from FBIHQ's 105-82555 file. Although the 105 number and serial cannot be ascertained from either copy, both are identifiable as from the 105-82555 file because that file title is included in the original typing of each memo. Although these documents are of consecutive dates, February 3 and 4, 1964, and were written by the same official, in Exhibit 5 the letter abbreviations for "Internal Security - Russia - Cuba" are used. In Exhibit 6 the words are spelled out. These exhibits illustrate other means of confusion that become possible when proper identification is omitted, as Benson omits all of them. These exhibits also illustrate that with the correct title the correct original file can be ascertained.

44. At the time two memos were written and ever since the man identified merely as SA Henry M. Wade was District Attorney of Dallas, Texas. The information disclosed fully in both exhibits is the kind of information for which the FBI makes claim to exemption in an arbitrary and capricious manner, including in this instant cause and in the Benson affidavit. Even Wade's "cover" as a reporter for a United States press service that was prominent in those days is disclosed along with Wade's code name and numerical identification. (In other records additional details are disclosed relating to Wade's informers. These included high-ranking Ecuadorian government officials. Such disclosures are for FBI political purposes. They also are information of the type the FBI and the Benson affidavit claim is never disclosed.)

45. Similar filing consistencies and inconsistencies are found in the Dallas Field Office files. Here my attached illustrations all deal with assassination photographs because these records hold the information for which I was asked, as stated above. These documents and the markings added also reflect that the serial number need not be assigned in the sequence of creation of the records, another factor that can cause confusion.

46. Exhibit 7 predates Exhibit 8 although both are of the same day, November 25, 1963. However, Exhibit 7 has the higher serial number. Both are captioned "ASSASSINATION OF PRESIDENT KENNEDY" and are from the 89-43 file.

47. This same assassination file was being used for photographs as late as the November 26, 1976, time of Exhibit 9. Exhibit 9 is more than 9,000 records later in the same assassination file, 89-43. None of these documents relating to pictures of the assassination bears a reference to the "Oswald - Internal Security" file, Dallas No. 100-10461.

48. However, Exhibit 10, a different 1963 report also relating to assassination motion pictures but written by a different FBI SA, is filed in the 100-10461 file without cross reference to the 89-43 assassination file.

49. Exhibits 7-10 were not sent to FBIHQ by Dallas, despite their content relating to photographs. Outside the FBI such photographs are generally considered to be good evidence. Exhibits 7, 8 and 10 also should have been given to the Warren Commission by the FBI, which acted as its investigative service. But the FBI was interested in only a "smoking gun" photograph. In Exhibit 8 the FBI represents Charles Bronson's photographs as worthless even though his still photographs, not so identified by the FBI, "did depict the President's car at the precise time shots were fired." The reason for disinterest so great that pictures of this content were not sent to Washington is that they allegedly were "not sufficiently clear for identification purposes." In the investigation of such a crime, there were important evidentiary needs other than identification, whether or not of Oswald, to be met. (The report does not reflect making any enlargement of the pictures for any purposes or any photographic intelligence performed.) Of the 8mm movie film this report states, "These films failed to show the building from which the shots were fired." While this description of the crime for which there was no eyewitness represents and serves the FBI's immediate preconception, reached

prior to investigation, this is not its sole flaw. A much more serious flaw is the fact that this statement could not be more grossly false.

50. These descriptions of the Bronson and other films represent one of the areas of potentially serious embarrassment for the FBI in this and other FOIA cases. This is because a private citizen/subject expert can detect what the nonsubject experts assigned by the FBI to the FOIA processing do not detect. Within my experience this accounts for withholdings and long delays as well as total noncompliance.

51. From prior similar experiences of my long FOIA past, I believe that if those who processed these records were able to perceive what I did these reports would have been withheld on some pretextual claim to exemption. Actually, these reports reflect an inadequate FBI investigation of the most serious and subversive of crimes in our country as well as FBI preconceptions that dominated the investigation and built in the official solution prior to investigation. This is reflected in other underlying FBIHQ records and was publicly reported when they were disclosed and read by the press. I believe Benson's pretextual claims are for such improper purposes.

52. I obtained the last four exhibits in C.A. 78-0322. I made copies available to others. Copies also were deposited in the FBI reading room. A reporter friend, Earl Golz of the Dallas Morning News, located Bronson and saw his still and motion pictures. Golz perceived immediately that the motion picture shows the very building the FBI stated it does not show. Even more significant, 92 frames of the movie include the very window from which the FBI alleges all the shots were fired by Oswald alone - and this only moments prior to the shooting. Subsequent analysis, which achieved considerable attention with and after Golz's publication on November 26 of last year, reportedly shows more than one image in motion where the FBI alleges that Oswald alone was present. The Dallas Morning News printed an entire newspaper page of individual frames of pictures from the Bronson movie showing this motion.

53. I believe this illustration shows the national purpose served by fullest possible disclosure of previously withheld information as well as motive for withholding under pretext followed by less than full and accurate representations to the courts, the true character of the Benson affidavit.

54. The importance of proper identification of the files in question is greater than indicated in the foregoing Paragraphs because of the utter and complete impossibility of some of the "national security" hazards conjectured by Benson and because his descriptions do not fit the underlying records. I show this below with copies of those records that have not been withheld from me. Where they have been withheld in their entirety, there is no mention by Benson of whether or not there are reasonably segregable portions, as there are.

55. What Benson does is to make a pretense rather than a representation of direct applicability in this instant cause, beginning at the top of page 2 of his affidavit, with Paragraph (5). The pretense is that all of the provisions of law and regulation cited are applicable to one or more of the withholdings on these worksheets. This is palpably false and in some instances is impossible. The subterfuge employed is to cite law and regulation, to claim personal knowledge and examination and then to catalogue the provisions of Section 1-301, followed by the representation that "one or more of these criteria" apply. If one applies, he has not sworn falsely but in context seeks to intimidate the Court with what is impossible. As a subject expert I state that there is no possibility that what was withheld can be "(a) Military plans, weapons or operations." (page 3); none regarding the "safeguarding nuclear materials or facilities," etc. If as he stated Benson is qualified, has personal knowledge and has made the examination to which he pretends, then with a total of a mere 19 entries to check he can and I believe should attest to any specific applicability of any claim and to exemption and any specific provision of law and/or regulation with regard to each entry. All of these generalities and irrelevancies serve no legitimate purpose in his affidavit. Whether or not they influence the Court, as clearly they are intended to do, they create an impossible situation for a plaintiff who lacks even the usual FBI wisp of smoke with which to grapple.

56. After all of the irrelevant for which a careful reading discloses not even a claim of relevance in this instant cause, Benson swears that from personal examination the withheld information is classified Confidential and only Confidential. This appears twice on page 2 in Paragraph (6)(a) and twice on page 5, Paragraph (9). The reference to alleged "Confidential" classification only is sandwiched in among other conjectured dangers to the national security, some

prefaced by "ifs" to make their inapplicability. No matter how many times Benson swears to "Confidential" his affirmation is not consistent with the underlying record. I attach copies of actual records to establish this and the fact that there are reasonably segregable portions that remain withheld in their entirety. In this connection I note again that Benson has not sworn to any personal examination that prevents disclosure of any reasonably segregable portions of the withheld underlying records, which also is in litigation.

57. Without proper and explicit identifications of those records for which Benson does not provide such identification, it would not be possible with certainty to provide the following copies. These are copies Benson could have attached as amplification for his affidavit, having allegedly made the necessary examinations, but he does not. I state "allegedly" because there is contradiction between his affidavit and the underlying records.

58. Another possible reason for an expert witness fudging over a precise identification of the files and for not providing copies of the relevant pages of the worksheets is because some of these pages raise substantial questions about the need if not also the legitimacy of the withholdings and others indicate pretty clearly that there is reasonably segregable information that remains withheld. Some of the attachments that follow will indicate the extent of what was excised where records were provided. Others relating to routing slips indicate that when they have a much higher classification than "Confidential" they have been released to me without any excisions.

59. I attach as Exhibit 11 the pages of the worksheets relating to the 10 items that should have been indicated in Benson's paragraph 10 as relating to the processing of File 62-109060. Where the file identification number or the section did not appear on the copies of these worksheet pages as provided to me I have added them, the file number at the top of the page above where it belongs on the printed form and the Section number to the right of this point.

60. The first item in the Benson list is represented as a Not Recorded Serial after 6841. That it is a Not Recorded Serial is not stated on that worksheet page although other entries are indicated as Not Recorded. There also are two Serials 6841 indicated, with an unexplained entry following each. Neither is identified as Not Recorded. Benson does not state which of these he attests

to although it appears to be clear enough from the withholding in the description of the second. It also appears that all four entries relating in one way or another unspecified way to Serial 6841 have to do with an "airtel" from New Orleans and what appears to be enclosed news articles, all probably dated 4/30/69. "Hot" New Orleans news of interest to the FBI at that time, aside from its improper interest in private citizens like me who were critical of it, had to do with the trial of Clay Shaw, who had been charged with conspiracy by then District Attorney Jim Garrison and by that date had been acquitted. The airtel merely states that it is forwarding two news stories. One is from the morning paper, the other from the afternoon paper. Both report that the Shaw defense received an extension of time for response to post-trial charges of perjury placed against Shaw.

61. The first unidentified object following the first listing of a Serial 5841 is identified as "Searching Indices Slip." There is no claim to classification for it. That withholding of the entire record is attributed to (b)(7)(c). No name is mentioned in the airtel, absent a withholding from me not indicated on the worksheet. In fact, the FBI has not claimed this exemption for many copies of its New Orleans indices searching slips in C.A. 78-0420, which also is before this Court. There appears to be no legitimate privacy interest to which this withholding can be attributed, particularly not if it relates to the sole subjects of the news accounts, Shaw and Garrison. Shaw has been dead for several years. That he had been a source for both the FBI and CIA is neither secret nor improper, given his post as manager of the New Orleans International Trade Mart (ITH) and the persons in whom the FBI had proper interest. People like the Nicaraguan dictator Somoza visited New Orleans under the ITH and similar auspices. Their presence in this country presented potentially serious and entirely legitimate concerns to federal agencies. It also is not secret that during the period of the Kennedy assassination and Oswald's prior life in New Orleans the FBI covered the Trade Mart regularly. It should have.

62. Initially the second unidentified object, after the second Serial 6841, was described as referred to the Department's DCRU, whose function is review. This is stricken through, as it also is with regard to the next listing, of Serial 6842, ^{which is} the next number on the Benson list. It would have been proper for there to have been a classification review, as it would have been proper to make an effort to determine whether what might appear to be classifiable was public knowledge and not secret. After both of these listings through of "To DCRU" there is written in

"b)." This also is written in after "(obliterated) Routing Slip," the description of the second unidentified object.

63. The FBI has given me copies of countless routing slips, even those said to relate to the "Top Secret," as will follow. Assuming that there was need and justification for some withholding from the routing slip, Benson does not state and there can be no honest claim that no portion of the routing slip was reasonably segregable. (Even if it does not relate to published news accounts.)

64. With regard to the withholding after Serial 6842, the situation is ludicrous. It reinforces my belief that all Benson did and all the FBI wanted him to do is rubber-stamp these withholdings. He simply cannot have compared this worksheet with what was provided to me.

65. The withholding is in the worksheet description of Serial 6842, which reads, "(obliterated) Report." If Benson is to be believed, what is withheld, if disclosed, could lead, if not to a nuclear holocaust, to the most dire of diplomatic consequences, to disclosure of the most urgent military or diplomatic secrets, or to hazard to the "safeguarding of nuclear materials or facilities." He is not specific about the catastrophes he suggests and lists but these are among them. (page 3, Paragraph 7, and page 7.)

66. I attach as Exhibit 12 the not withheld referral slip substituted for the record. It states in large letters what is withheld, that Serial 6842 of File 62-109060 is a report of the Royal Canadian Mounted Police.

67. There is no secret about collaboration between the Mounties and the FBI. It is public information, readily available in countless libraries and newspaper files and in copies of FBI records available in a number of public sources ranging from my files and the National Archives to the FBI's own public reading room. Were this not true, the FBI's "legal attache" or "Legat" has diplomatic recognition. So far from secret is this proper, necessary and very well known cooperation between the various national police agencies that those with which the FBI has formal "Legat" relationships are listed on printed FBI forms made available to me. A copy of one follows below for a different purpose. The fact of this cooperation "disclosure" of which, according to Benson's affidavit, could bring about indescribable troubles is so nonsecret it is the subject of public and well-publicized FBI testimony before the Congress, particularly when the FBI wanted to extend the approved number of Legats. Of course, it also is anything but secret

from the families of those assigned to these "legal attache" offices. Many years ago I learned I had a cousin assigned to one as an SA when my aunt and uncle told me.

68. There also is the small matter of the worksheet Benson is supposed to have checked representing the underlying record as of a single page, whereas the referral slip clearly states there are two pages.

69. The identical situation exists with what on the worksheet once again is not described as a Not Recorded Serial following Serial 6845 and with regard to Serial 6846. These are the next two on Benson's list. The routing slip is withheld, without pro forma claim that there is no segregable information. With regard to Serial 6846, what is withheld from the worksheet that Benson sanctions and justifies was disclosed a year ago in the records provided. The referral slip, Exhibit 13, shows clearly that it again is the same RCMP. Once again Benson's worksheet represents that there was but a single page and the referral slip again states there are two.

70. With regard to the next item on the Benson list, Serial 6849, the same withholding is justified as essential to the national defense. Again there was disclosure a year ago of what is now withheld, as the referral slip, Exhibit 14, shows. There are two minor differences. One is the use of the abbreviation "RCMP," the other is that in this instance the worksheet does not misrepresent the number of pages in the underlying record. I note this not only in fairness but also because the pages not included on the worksheets represent continued unjustified withholdings.

71. Next on Benson's list of worksheets is the Not Recorded Serial after Serial 6851. The referral slip, Exhibit 15, was given to me and countless reporters. Like Benson's other "national security" secrets, it, too, is readily available in the FBI's reading room.

72. The fact of referral to the DCRU is not stricken through with regard to the two immediately preceding illustrations. The Department apparently has found more than a year inadequate time for action on those referrals.

73. On the worksheet the only referral indicated for what Benson lists next, Serial 7424X, is to DCRU. This means that the Department apparently has not ruled after a year on whether the (b)(1) claim is justified. (Serial 7424 relates

to a false report confessed to by a Mexican woman who stated she was drunk and sorry about it.) Apparently there is no single part of the 71 pages of Serial 7424X that is reasonably segregable because it is withheld entirely. I recall no affidavit attesting that no part was segregable.

74. Two documents that are not withheld but from which there are excisions are next on the Denson list. These are Serials 7437X and 7437X1, respectively Exhibits 16 and 17. Both are as they were provided to me. The worksheets that Benson supposedly checked with "national security" care indicate the records are of four and seven pages, respectively, but the worksheets are blank under the column heading for pages released. Page 2 is withheld from Exhibit 7437X and page 6 from 7437X1.

75. At this point there is other withholding that again is misrepresented and again is rubber-stamped by Benson. Once again the number of pages varies in the records. The worksheets state that there are six pages to Serial 7437 and that all six were released to me. In fact, the record was withheld. It was replaced with a referral slip, attached as Exhibit 18. This reflects that the record was withheld in its entirety and was referred to the Secret Service. On Exhibit 18 the number of pages is given as seven, not six.

76. If Benson even glanced at Exhibits 16 and 17, Serials 7437X and 7437X1 prior to executing his affidavit, he would have known that he erred in attesting that all the information withheld from the worksheets is correctly classified "Confidential," and that all are represented by the letter "C." All the withholdings on these two exhibits are indicated as "S" and the documents are stamped "Secret." What is classified as "Secret" and is withheld includes what is within the public domain by front-page treatment and coast-to-coast TV coverage.

77. It is not possible to read excised Serial 7437X and understand what was at issue, but there is no problem if one consults newspaper stories and the published copies of public official proceedings - yet Benson approves "national security" classification.

78. The withholdings are so extensive that only limited sense can be made of what remains. For example, on page 3 of Serial 7437X there is a reference to a Mr. Stern who appears to have been of the staff of a Congressional committee but he is not otherwise identified. Earlier his full name was withheld, resulting in possible confusion with a staff counsel of the Warren Commission also named Stern.

The same FBISA who is the subject of these two Serials was a Warren Commission witness. His name is James Patrick Hosty, Jr. The unjustified withholdings are so extensive there is confusion between his Congressional and Commission testimony, both of which were published by the government. Only a subject expert can detect this. One point of this confusion is a remaining reference to Hosty's "return" to the Dallas Field Office. It happens that Hosty was disciplined and transferred from the Dallas Field Office in 1964 and these records are of 1975 events.

79. If any of the withholdings are properly subject to classification, then the Department and the FBI have been deceitful because both represented that they made full disclosure of what was very embarrassing to the government. Yet without subject-matter knowledge one cannot read these obliterated records and even guess what they relate to.

80. There are FBI misrepresentations to the Attorney General himself in what remains in Serial 7437X1, as in describing the FBI's handling of its pre-assassination interest in Oswald as an "extremely fast-moving case." (page 3) Slower motion could hardly be attributed to a decrepit snail.

81. Hosty was in charge of the Oswald file in Dallas. When the case was reassigned from New Orleans, it required, according to his Warren Commission testimony, a month for the file to reach Dallas. From early October, when Oswald returned from Mexico, until November 22, the day of the assassination, at this "extremely fast-moving pace" Hosty never got around to speaking to Oswald. He was no speedier after the assassination, from his Warren Commission testimony. He took a long time to type up reports of his other interviews, including of Marina Oswald, and then, naturally enough, with Oswald the only candidate for assassin, destroyed his notes of these interviews.

82. As released to me, the closest these records come to reporting what was within the public domain is in this quotation from the first page of Serial 7437X1, the Director's report to the Attorney General: "... Oswald allegedly left a note which was threatening in nature. This visit and note were not reported following the assassination of President Kennedy by Oswald." The statements are not accurate, resulting in still another misleading of the Attorney General.

83. The first sentence quoted would be accurate if the "allegedly" were transposed to read "Oswald left a note which was allegedly threatening in nature."

The second sentence is straight-out false and the FBI's own files of both the earlier period and relating to the 1975 incident are explicit on this. Both the visit and the note were reported "following the assassination" and are included in the Warren Commission testimony of Marina Oswald and the woman with whom she had temporary residence, Ruth Paine. Because this information was included in FBI Congressional testimony, the misrepresentation to the Attorney General is blatant.

84. What actually happened is that Oswald did leave a note at the FBI office for Hosty after Hosty spoke to Mrs. Oswald. Almost everyone in the Dallas FBI office had some knowledge of this. Years later and then only after the retirement of the Special Agent in Charge was secure, the Dallas Times-Herald was tipped off about Oswald having left this note. Before publishing the story it checked with FBIHQ. When the story of the only officially accepted assassin having left a note for the FBI agent in charge of his case was published and earlier rumors about Oswald having served the FBI as an informer were recalled, there was a major sensation. It received extensive attention. The FBI supposedly conducted a full inquiry. This included taking affidavits from every one of the employees of that office of the time, from the receptionist to the SAC. Not surprisingly after 12 years there was direct conflict in the affidavits over material information. It was not possible to determine what version was untruthful and thus not possible to prosecute false swearing over what was very embarrassing to the FBI. (Embarrassment would have been greater if the FBI had not succeeded in keeping this secret for those 12 years.) No further punishment is known to have been inflicted on Hosty. He also was permitted to speak freely to the press after his 1978 testimony before the House Select Committee on Assassinations. Even more atypical for the FBI, he was permitted to criticize the committee publicly.

85. What is absolutely certain in all of this is that, absent false representation by the FBI and the Department, there is nothing about the scandal that today is subject to any degree of classification because, entirely aside from what is within the public domain, there was official assurance that all was being made public. Other Sections of this file contain information that is relevant, including the stenographic transcript of Associate Director James B. Adams' testimony before a House Judiciary subcommittee.

86. This again illustrates the built-in results from assigning personnel who lack subject-matter knowledge to processing controversial historical cases involving vast amounts of records. This also illustrates the certain rubber-stamping from assigning a classification expert like Benson to a review of such classifications as appear on the worksheets and the predictable consequences, whether or not he has any subject-matter knowledge, of failure to review the underlying records to determine the legitimacy, even the rationality, of the classification noted on them and the different classification of the worksheets.

87. Benson swore to "confidential" classification only on the worksheets he reviewed. Both of these Serials are classified "Secret" and they are not the only ones with "Secret" classification claimed. (Two in the 105-82555 files are classified "Secret" and on another I see no classification marking at all.)

88. Last on Benson's 62-109060 list is the withholding relating to Serial 7980. The worksheet does not indicate the year of the record. Other records in this Section are of 1976 or 13 years after the assassination. There is no indication of classification until the time of processing for release at the end of 1977. The memo is of 30 pages. No portion was provided as reasonably segregable. Without abuse of the exemptions it is virtually impossible that no portion was reasonably segregable. Moreover, initially, the worksheet held no indication of any classification of the underlying record. Entries are in three different handwritings. The first entry is "left to DOJ." The second is "Possible b1." Third is "(7E) Reference to (obliterated)." As the Department's appeals authority testified in C.A. 75-1996 on January 12 of this year, there is no intelligence method used in the historical cases that is secret or can be endangered by disclosure of its past uses. Many have been disclosed in the Kennedy and King assassination records that have been released. On the other hand the spurious claim has been made for one of the oldest and best-known intelligence methods, pretext. In all prior cases, once the withheld information was disclosed, it became clear that there was no basis for classification and that withholding served only to harass and to avoid official embarrassment. From the referral slip, attached as Exhibit 19, it appears that the Department has not acted on the referral after a year or has decided what appears to be impossible, that there is no reasonably segregable portion of the 30 pages - not even the date of the record.

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89. Benson has three obviously boilerplated pages of supposed explanations and justifications (pages 7-9). They are conclusory, lack specific reference to either the specific withholdings on the worksheets or the underlying records, and even state the impossible, that "disclosure" of what was already disclosed "would reveal cooperation with a foreign police agency." (emphasis added) He follows this in his boilerplated claims of need by alleging that what I here provide from public materials the FBI dare not "disclose" because "A more detailed description of the withheld classified portion of this document (i.e., the worksheet) could reasonably be expected to result in identifiable damage as explained in paragraph B(a) above."

90. As I state above, there is no "explanation" in the cited Paragraph. It is merely a paraphrase of language of the Executive Order that in no tangible or specific way is by any means related to the withholdings in this instant cause.

91 Straightfacedly, Benson makes a confession he does not spell out to the Court: the worksheets were not classified in accord with the controlling Executive Order at the time in 1977 when they were created. The FBI was well aware of the requirement. His backhand if not underhand way of making the confession is "... this page was classified and marked Confidential on April 27, 1978, by Classification Authority Number 6855," whose name is not provided. (emphasis added) My request was two and a half months earlier.

92. Benson's second boilerplate "explanation" is identical with his citation to his Paragraph B(a) only he substitutes B(b). This claim is that disclosure of what is withheld "would identify an intelligence gathering method which remains in use by the United States Government today, the loss of which would have a serious impact on the ability of the United States to obtain vital intelligence information." This conclusory and exceedingly vague claim does not meet the requirement of decisions of the appeals court that I have read in not showing that the methods are unknown rather than what is certain in this case, well known and used by all countries. The claim to "loss" of the method is carefully phrased to be deceptive because there is no secret method involved. Benson generalizes that "the loss would have a serious impact ..." But he fails to make even pro forma claim that the disclosure of what is withheld from the worksheets could in any way cause any such loss. His clear reason for evasiveness is the avoidance of charges of false swearing if what is withheld were disclosed or from the kind of information that

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as the FBI well knows I can and do provide, as I do in this affidavit.

93. He extends this claim to internal FBI records of an internal FBI investigation, that of the scandalous Hosty matter described above and the equally scandalous effort of the FBI to hide that ugly bulge under its ample rug. It simply is not possible for the FBI to have used on itself or any Congressional committees any "intelligence gathering method" of which there also was any danger of "the loss" that "would have a serious impact" on our intelligence capabilities.

94. Benson has eight serials noted from six sections of the 105-82555 file, the one he styles merely "Oswald." Again he provides no copies of the worksheets. I attach as Exhibit 20 copies of the seven pages of relevant worksheets made from the copies provided to me. As can be seen, they bear no classification marking and thus also are a different set than the set based on which Benson provided his affidavit.

95. Benson's first is Serial 1494 from Section 69, the only Serial cited to that Section. (There is more than one Serial cited to Section 214 only.) As Benson rolls his boilerplate with one hand and flails his rubber stamp with the other, he "explains" the withholding on page 10 as that omnipresent cataclysmic possibility, "would reveal cooperation with a foreign police agency." At the same point he swears that this page was classified and marked as "Confidential" on April 27, 1978, by "... 6855." Again, the first classification was after the complaint was filed.

96. With this Benson and No. 6855 have extended the parameters of my experience with FBI stonewalling, misrepresentation and Rube Goldberg interpretations of FOIA and other Acts and regulations. This is established by the copy of the underlying document attached as Exhibit 21. There is no classification marking of any kind on this document. In the processing a note was made, "possible b1 for (obliterated) on page 3, #5." This was then stricken through and replaced by "p 3, b-2," indicating that the withholding was not made on national security claim. Next the obliteration of what was already held not to involve any national security information was itself marked "b1." Aside from the fact that if the original information is not subject to proper classification, the initials of the police agency also are not, all of this information relating to the cooperation of foreign police in the "Oswald" investigation was made public by the Warren Commission in 1964.

98. The Department has found this kind of use of (b)(2) to be inappropriate. On the worksheet there is this claim only for the two typed lines withheld on page 3 of the underlying record. Content is a general reference to FBI procedures in obscuring sources. There is no representation that what is withheld is not well known, as it inevitably is. But if any exemption is applicable it is, from Department practice and testimony, (b)(7)(C) or (D), not (b)(1) as claimed for the worksheet.

99. Serial 2095 (one page attached as Exhibit 22) is next on Benson's list, which once again fails to indicate that two different records are so numbered. Each is of two pages, identified as to and from the Legat, Ottawa. On this added basis, there is no secrecy, no information to protect to prevent the trashing of FBI cooperation with the RCMP. If as is doubtful there is any need to withhold in toto what was submitted to the FBI Laboratory for the Warren Commission, as is reflected in Exhibit 22, and if what is even more doubtful, there was justification for the "Secret" classification, Serial 2095 itself is classified "Secret" with the claim that no lower classification is possible for any of the withheld information. Yet the classification to which Benson attests is lower, "Confidential." Bearing on whether or not any classification is justified, subsequent to the April 1978 classification of these worksheets FBIHQ and the Dallas Field Office provided me with copies of what is represented as all case exhibits. This would seem to mean that the content withheld from Serial 2095 has been disclosed and that no classification justification exists. There also is the ever-present question, never addressed in this "historical" case, of the withheld information being within the public domain.

100. In addition, another substantial question of compliance, if anything is reasonably segregable on the second page of Exhibit 22, it has not been provided. I recall no affidavit claiming no content is reasonably segregable.

101. The third Serial listed under this category was marked "Confidential" at the 1964 time the record was generated. Whether or not the conditions of that day, particularly with regard to what is within the public domain, hold true today cannot be determined because of the nature of what is withheld as classified. The explanations, the standard boilerplate, appear to be considerably overblown if at all applicable in 1979.

102. The first sheet of the part of this record that was disclosed to me states that it was prepared for the Warren Commission in March 1964. Thereafter the Commission published a 900-page Report and appended 26 large printed volumes of an estimated 10,000 pages and 10,000,000 words. About 300 cubic feet of its records, most publicly available, are at the National Archives. There is every reason to believe that what is withheld today is no more than a rubber-stamping of the 1964 pre-Report confidentiality practiced by the FBI and the Commission, both of which wanted nothing except what was leaked to be known prior to issuance of the Report. Benson ignores the processing notation on the worksheet noting the inclusion of the information in two Warren Commission records, identified as CD 476 and CD 651. There is no indication of any consultation with these records or the National Archives to determine whether or not the information withheld on the worksheet is readily available at the Archives. The Attorney General has designated this as an historical case, which requires extra diligence in processing. I am certain that in 1967 I published some of the content of the underlying record.

103. A great number of the FBI's and CIA's Cuban sources of that period have since gone public on their own. In addition, the FBI has voluntarily identified a number to me and to others. I provide this explanation because due diligence and good faith required at least a casual effort to determine whether or not the information sworn to as requiring classification today is within the public domain. Instead, Benson boilerplates the inherent threat and effort to intimidate, the allegation that "extreme secrecy" is involved and "a more detailed explanation" in itself "could reasonably be expected to result in identifiable damage..." (page 11) Parenthetically, I note that if "extreme secrecy" is required, the level of "Confidential" is an inadequate protection and greater protection is as available as the closest rubber stamp.

104. The claimed reason for worksheet withholding relating to Serial 4106 is the same fictional "disclosure" of RCMP cooperation. The underlying records refer to the book of a refugee Ukrainian author actually translated into English and summarized by the FBI. The named man is described as a "mental" case. There is no privacy claim. However, the entire text of the Legat's communication is obliterated. Certainly every word did not have to be withheld to hide RCMP identification, Benson's sole claim. (page 11)

105. Benson's only claim for withholding from the worksheet covering Serial 4718 (attached as Exhibit 23) is the same fiction relating to the nonsecret cooperation with foreign police. As the underlying record states clearly, the FBI intended dissemination of the textual information, all of which is completely withheld. Obliteration in processing extended to the file and serial numbers as well as to what is indicated on the stamp relating to the initial classification, that "All information contained herein is unclassified except where shown otherwise." "Where shown otherwise" also is obliterated. What is withheld from the underlying record by these improper means makes it impossible to state with certainty that of which there is a very high probability, that there is no possibility of the worksheet disclosing in unexcised form any international police cooperation not previously well known and formally and diplomatically recognized. (I added the identifying numbers at the bottom of the exhibit.)

106. The record was given to the Warren Commission, raising all the public domain questions stated above. Inconsistently, an added page headed "Recommendations" is stamped "Confidential" but is disclosed without excision. It is apparent that classification of the added page was never justified. It was released without declassification, as required by Executive Order.

107. Of Serials 5024 and 5026, Benson states with regard to the worksheets "only that portion is withheld that would reveal cooperation with a foreign police agency." (page 12) Once again it is the nonsecret RCMP, indicated by the worksheet itself in the description of the source of both as "Legat Ottawa" and on Serial 5026, which is attached as Exhibit 24. Serial 5024 is withheld in its entirety, as one would not know from and as is not justified in the Benson affidavit. There certainly is some reasonably segregable information, as with Exhibit 23, where the entire text is obliterated yet some information is disclosed. Serial 5026 is in a different and special category. Nonetheless, it is impossible for any of the withheld information to "reveal" what was not earlier known about RCMP cooperation. With Serial 5026 the FBI's 1978 zealots withhold under spurious claim to exemption information that was never withheld and I actually published in a book in early 1967, or more than 11 years earlier. Details of the work the RCMP did for the Warren Commission and the FBI and copies of the records it obtained have been available at the Archives. I published some in facsimile and report details of the

RCMP's cooperation on 11 pages. This underscores the true character of the withholdings and of the claims made; the lack of need for these kinds of withholding; and the ulterior purposes they serve and I believe are intended to serve in what amounts to FBI Cointelproing of all other parties while simultaneously creating false FOIA cost statistics.

108. Examination of Serial 5026 discloses that it is not classified. This means that the FBI claim ^{that} the processing worksheet for the unclassified record must be classified is ridiculous.

109. The last worksheet under the 105-82555 category relates to Serial 5555, another of which there are two, not the one of the Benson affidavit. (pages 12 and 13) Once again the year is withheld on the worksheet. From the other records in this Section it is 1967 and apparently relates to the Garrison fiasco in New Orleans. Both are represented in the records provided to me by a single referral slip, attached as Exhibit 25. If this means that the CIA is the source of the information in the underlying record, there is no basis on which Benson has qualified himself to offer the expert opinions he gives relating to the CIA's sources on page 13. Most of the so-called information relating to the Garrison so-called investigation was not of substance. There is no claim that the withheld information is not within the public domain. Moreover, in initial processing, as the worksheet clearly reflects, no (b)(1) claim was made. The processing analysts merely raised a question about the possibility of such a claim. The question mark remains on the worksheet. Moreover, the sources indicated on the worksheet are not the CIA but the Mexico City Legat and the Dallas Field Office of the FBI.

110. Quite a number of these so-called secret sources have been dancing across the front pages of the tabloids, appearing before Congressional committees, been interviewed by the daily and Sunday newspapers and have been all over radio and TV, including many "talk" shows. In many ways they have become very public in the past decade and a half. It is a legitimate question with regard even to actual symbolized informers to ask if they are not now known as sources.

111. This is an "historical" case in which there is supposed to be maximum possible disclosure. An essential part of the overall historical importance is the deliberate fabrication of false stories, notoriously but not exclusively by anti-Castroites who tried to convert the great tragedy to their own ends by precipitating a United States attack on Cuba to depose Castro. Many of these anti-Castroites were FBI and CIA sources. All possible disclosure thus is important,

whether in whole or with justified excisions. In this case, as with all the other referrals I recall, no records have been provided in more than a year, a year and a half after the processing. With this and other CIA referrals there is the additional compliance question, were the records released by the CIA or by release of Commission copies filed at the Archives.

112. The one remaining worksheet referred to in the Benson affidavit is from Section 26 of what he calls "Ruby," actually FBIHQ File No. 44-24016. This single worksheet is attached as Exhibit 26. Although with regard to it as with those preceding Benson states it was classified on April 27, 1978, which is after the complaint was filed, the copy provided to me bears no indication of any classification.

113. With regard to this worksheet Benson also invokes the spectre of the collapse of international police cooperation. (page 13) While the worksheet refers only to "Legat" the underlying record states it is from Ottawa, again identifying RCMP. The worksheet states that all four pages were released to me. In fact, only the three pages that are attached as Exhibit 27 were provided.

114. Another purpose for attaching this exhibit is to show that even when, as in this instance, the FBI removes 100 percent of the textual material, some, even if little, segregable information remains.

115. The only claim made for any withholding on the worksheet is "b1." I am certain it is not possible for 100 percent of the withheld textual material to involve only national security secrets and that every single word of the text could lead to their disclosure. This is to say that there is a reason for withholding not indicated on the worksheets or claimed in the Benson affidavit. In addition, any comparison made between the worksheet and the underlying record, required for validity in making a claim for the worksheet classification and withholding, should have disclosed the factual misstatement relating to compliance in the worksheet, that all four pages were disclosed when only three obliterated pages were released to me.

116. There are few if any secrets relating to Jack Ruby. The most personal details have been widely publicized. These range from his sex life and interests that extended to animals, to his sanity and other medical information, and to allegations of criminal associations. There is no reasonable possibility that any

part of this record had to be withheld under the privacy or other exemptions. Ruby died in early 1967. He was unmarried.

117. From the foregoing Paragraphs it is apparent that the Benson affidavit is carelessly drawn boilerplate so indefinite that it does not make proper identification of the files in question; makes baseless and unnecessary claims to non-existing national security questions and then misstates the truth with regard to them; invokes "national security" to justify the withholding of information that is not only within the public domain but is actually disclosed in the underlying records; makes generalized conclusory and inapplicable claims to the alleged "national security" dangers that would exist from the "revealing" of what had already been disclosed, the implied dangers extending to nuclear and military secrets and diplomatic ruptures; and even claims that the processing worksheets covering entirely unclassified records are necessarily and properly classified. The Holy Scripture would not be safe in such minds and hands. The Act and requesters under it certainly are not.

118. Other and substantial questions of compliance remain, even of compliance limited to the worksheets only, which is not the limitation of my information request. There are substantial questions about the integrity of the worksheets other than as I have addressed these matters in the preceding Paragraphs relating to the Benson affidavit.

119. Where the worksheets are not accurate, neither the Benson nor the earlier affidavit of SA Horace P. Beckwith addresses the withholdings covered by them. It is obvious that either neither compared the worksheets with the underlying records, which is a minimum requirement for attesting to the worksheets by other than a rubber stamp, and that neither told the whole and undistorted truth. The Benson affidavit appears to be limited to his representation of withholdings in the worksheets under (b)(1) claim.

120. There is the most substantial doubt about very many (b)(1) claims where there is no obliteration on the worksheets. This still involves the processing and release of the underlying and other records, which is included in my request. There is, in fact, substantial reason to believe that less than fully honest worksheets were created to hide FBI misuse of classification and the Act to withhold what is embarrassing to the FBI and other agencies and, as I have indicated

earlier, what is within the public domain. There are misleading if not also false entries on the worksheets. This is not new within my experience. There has never been even pro forma denial when I have alleged this and provided proofs, as I do now. An earlier instance involved the same SA Beckwith who provided the earlier affidavit.

121. It does require my experience and knowledge in this field to be able to detect some of the exploits in noncompliance that are justified by misleading affidavits and those that can be expected to intimidate the Courts, especially with false representations of danger to the national security.

122. What follows is illustrative. It is possible because of a record I obtained in another cause and because of my extensive knowledge and my experience.

123. While hundreds of reporters, so-called subject experts, "critics" and "researchers" have had access to these records, what follows is totally unreported except by me and prior to now by me only through an appeal from the denial that after much of a year has received no response.

124. With more time and if my health and other conditions of my life do not preclude it, I can amplify what follows with much more relevant information and a number of additional exhibits.

125. What follows also relates to one of my information requests with which the FBI has not complied after more than three years. Reasons for that and related requests include official misrepresentation of Orwellian nature, the misleading of the Presidential Commission and the people of the country. This is part of a matter on which, from records in my possession, the President himself was misled. It is a matter I was encouraged to pursue by a Member of the Warren Commission, Senator Richard B. Russell, who told me it is an area of information relating to which he believed the executive agencies had underinformed and misled the Commission.

126. Exhibit 28 is the worksheet for FBIHQ 62-109060, ^{Serial 1338} and the cover sheet for the set of bound worksheets in which it is included as provided to me. This is the first set of worksheets for that file and as can be seen the correct title and the file number are indicated.

127. Serial 1338 is a three-page teletype from Dallas of 11/23/63, all withheld under (b)(1). Referral to DCRU, followed by several hieroglyphics, is stricken through. As stated above, DCRU is a component of respondent Department of Justice.

If as would have been proper the referral was made, DCRU has not acted after more than a year and a half.

128. Exhibit 29 consists of two pages. The first is the worksheet covering Dallas Field Office file 89-43, Serials 287 and 287a. I obtained these records in C.A. 78-0322, which is before this Court. It should be noted that, although these appear from their numbers to be contiguous Serials, in fact they are separated in time by 13 and a half years. Serial 287 is the Dallas copy of FBIHQ 60-109060 Serial 1338, the withheld three-page teletype listed on Exhibit 28.

129. The Dallas records were processed at FBIHQ by the same unit that processed FBIHQ records. On the Dallas worksheet the FBI noted that I was not provided with a copy because it was, ^{released when} "previously processed." This is not only the apparent meaning of "previously processed," it is what the FBI told me. Simultaneously, the FBI refuses to provide any reference to the records as "previously processed." Because in this case I have the correlation between the FBIHQ and Dallas, I state that the information was and is withheld.

130. The second page of Exhibit 29 is the "Routing Slip" indicated on the first page of the exhibit, the worksheet, as Serial 287a, dated March 24, 1977.

131. A routing slip is usually employed to explain what accompanies it. As stated above, I appealed this denial going on a year ago, without response. I interpreted this routing slip to mean that in 1977 FBIHQ returned its original copy of the 1963 teletype to Dallas in order that it not be retrievable from FBIHQ files.

132. It is long-standing FBI practice to use the inaccessible field office files as "memory holes" in order that FBIHQ be able to deny that its files hold embarrassing information. I have copies of FBIHQ records in which field offices are criticized and chastised for deviating from this practice and for sending embarrassing information to FBIHQ.

133. In the months following my appeal it has not been denied that this routing slip was used to rid FBIHQ's 62-109060 files of this three-page teletype. This, of course, does not constitute confirmation.

134. In this connection I note that the preceding Serial, 286, appears to be what must exist, the related memo to the Special Agent in Charge (SAC). That such a memo exists is indicated in the explanations of all of this that follow below.

135. This is an internal Dallas Field Office memo. It was referred to the

CIA. Whether or not this is proper, as I believe it is not, these memos are prepared on forms that hold and require other easily segregable information. In this instance the identifications of the reporting special agents, the nonsecret subject and what is public knowledge are reasonably segregable and did not have to be referred to the CIA or anywhere else - if the FBI's intent was compliance. I know enough about the hidden matter to be able to make unequivocal statements. In addition, there is a real question of waiver some of the details of which follow. I believe there was a waiver under the Act and under court decisions I have and have read. The waiver is from the release of other relevant records I have and from public sources to which there also was disclosure.

136. The routing slip states that there was a telephone call from "Mr. Malley," probably FBIHQ Inspector J. M. Malley. Its convoluted language describing "teletype ... dated 11/23/63" is "dealing with conversation of transcript."

137. I note I have found no reference to this routing slip on the worksheet for 62-109060-1338. Exhibit 28 shows no such entry was added at Serial 1338, as was done with Dallas Serial 287.

138. The routing slip indicates that the teletype had not previously been classified but that as of the 1977 day it was prepared - 13 and a half years later - it was suddenly classified "Top Secret." Its exemption from the declassification schedule is represented as "Indefinite."

139. What this means is that until 13 and a half years after the creation of the record, which actually was less than 24 hours after the President was assassinated, an unclassified record was suddenly given the highest classification. Suddenly it became the kind of record that, for example, could start a world war if its contents were disclosed. This is a palpable impossibility. The sudden ex poste facto classification clearly has other purposes, as I state below.

140. That there was no prior classification is established by the routing slip itself. The printed form requires that either downgrading or upgrading be indicated. Neither is indicated.

141. It is not by accident that this routing slip remained unclassified until 1977. It could not have been an oversight. Among the proofs is testimony my counsel took from three FBI FOIA supervisory special agents the Department presented as witnesses in my C.A. 75-1996. As of that September 1976 date, which is to say a

year prior to the classification of "Top Secret," what the FBI testified to as the third complete review of the Kennedy assassination records was in progress, in compliance with FOIA requests. Interestingly enough, although mine were established as the earliest of these requests, mine were not included in any of those three reviews and were not added to the ongoing FOIA review.

142. Convoluted as is the description-"dealing with conversation of transcript," to a subject expert and to one who has some familiarity with the hundreds of thousands of pages of official records and extensive reporting and other writing in this Orwellian practice the references are clear.

143. The description, only a transcript, is incomplete. Photographs also are involved.

144. Officially, Lee Harvey Oswald is the lone assassin of the President. First the FBI, then the Warren Commission, declared there was no conspiracy, foreign or domestic. Oswald left New Orleans for Mexico City the end of September 1963. There is no absolute proof of the exact time of his departure or of his crossing the border on his return. The FBI did establish that he left his Hotel Comercio quarters on October 2, while he still had a day left from what he had paid for the accommodations and that he entered Texas at some time during the morning of October 3. There are contradictory official reports. I can provide one that states he crossed the border too late that day to have reached Dallas by the time he ostensibly filed for an unemployment payment. This record also states that the handwriting at the border and in Dallas are not the same - or that one of the signatures was not written by the real Lee Harvey Oswald.

145. While in Mexico Oswald sought a visa to Cuba allegedly in transit to the Soviet Union. If seriously intended, this was irrational because at that time one of the more difficult means of reaching the Soviet Union was by way of Cuba, as Oswald knew. He also knew from prior experience how easy it was to reach the Soviet Union via England and Finland. (In this connection I note that official investigation, particularly by the CIA, established there was no commercial transportation by which on the trip he did make Oswald could have left London when he did and reach Helsinki when he did.)

146. At least one phone call Oswald made from the Cuban to the Soviet Embassy in Mexico City was intercepted, taped, and transcribed by the CIA. This was not

reported by the Warren Commission or included in its appended 26 volumes of documentation.

147. When Oswald was arrested in Dallas the early afternoon of November 22, CIA and FBI employees in the United States Embassy in Mexico City recognized the name.

148. With time I do not now have I can provide documentation from the files of both agencies for what follows. FBI SA Eldon Rudd, then assigned to Mexico City Legat and now a Member of Congress, flew to Dallas in a Navy plane. Before the plane landed, a little after midnight, SAC Shanklin directed SA Wallace R. Heitman (if my unchecked recollection is correct) to meet Rudd and drive him to the Dallas FBI office. Rudd had with him the tape, the transcript and a number of photographs of a person initially said by the CIA to be Oswald as he left the Russian embassy. It was not Oswald, as the FBI recognized immediately. (Notwithstanding this, it showed one of these photos to Oswald's mother seeking identification.)

149. After FBI agents familiar with Oswald's voice and appearance heard the tape and examined the photographs, their negative identification was sent to FBIHQ by teletype and probably earlier by phone. This was still early in the morning of November 23. Also on November 23 Director Hoover wrote Secret Service Director James Rowley a six-page letter.

150. In this letter, which for a long time has been within the public domain, Hoover told Rowley of the negative identification of Oswald from the materials brought to Dallas by Rudd. While the Hoover letter appears to say that this negative identification was made from listening to the voice on the tape and the letter has been so interpreted by others, especially Mark Lane, in fact the letter is ambiguous and only implies that the negative identification was made by voice. It is possible that the "not Oswald" determination was made by the ^{FBI} from the photographs. They have been released. They do not resemble Oswald in size, weight, age or any features.

151. For a long time the CIA pretended there was no error, if it was simply an error, in labeling those as Oswald photographs. But the FBI was never under any misapprehension. I can provide copies of FBIHQ's immediate orders to make an identification of the person in those photographs. If this was done, I have received no such records.

152. With regard to either the photographs or the taking of the photographs or the cooperative arrangements between the United States and Mexican authorities, there never was any secrecy. I knew of the taping of the Oswald phone call years before that information was published.

153. With regard to Benson's newly claimed alleged need to hide such cooperative relationships even where the United States agents have diplomatic status, in itself clearly an imposition on the trust of the Court, I note that the routing slip in Exhibit 29 lists the 14 known Legal offices of that period. The cooperative arrangements were never secret. This form is not classified. In addition, as the FBI knew very well before seeking to mislead the Court and defraud me by the withholdings and the Benson affidavit, a number of persons with personal knowledge, notoriously E. Howard Hunt of Watergate, have published books containing detailed accounts of such arrangements and their participation in them.

154. Going along with this withheld teletype is the report of that time - frame alleging Oswald had been an FBI or CIA informer. This report angered the FBI and terrified the Warren Commission, as its executive session transcripts established. Commissioner Allen Dulles, who had been Director, Central Intelligence, used such words as "Oh, terrible" and "terrific" to describe the consequences of the report being believed. The Commission's executive session transcripts also establish that its purpose was not to investigate this report but to "wipe it out." In the end the Commissioners agreed to the Dulles proposal to destroy that particular transcript. However, the stenotypist's tape remained and under FOIA I obtained a transcript of it.

155. One of those responsible for the report of Oswald as an informer is Alonzo Heidt Hudkins III, then a Texas newspaper reporter. He writes under the name by which he is better known, Lonnie Hudkins. Later he became my friend.

156. Hudkins has had his own relationships with federal agencies.

157. Several years ago Hudkins published an account of the taping of the conversation reported above and of the taking of the photographs. There had not been secrecy about the point from which the photographs were taken or the means. Even the Cuban Government knew. In fact, it is a well-known norm of the practice of intelligence, as is the local police involvement.

158. There was extensive reprinting of what Hudkins published as there

also had been of earlier published accounts which lacked the since-confirmed details Hudkins provided.

159. As stated above, all of this is included in my FOIA request of years ago. It remains without compliance, regardless of inappropriate sneering references by Department counsel to this Court. The CIA has acknowledged the similar information requests I made of it and merely stonewalls them and the appeals, apparently preferring the withholding and attrition and the possibilities of further wearying overburdened courts by forcing litigation that is the only alternative to a requester's acceptance of noncompliance.

160. I provide the following details because of their relevance to current and prior withholdings, representations by the Department with regard to my instant request, and the fidelity and dependability of the worksheets in question and withholdings from them. This also reflects the extraordinary degree to which information initially withheld and after long withholding was classified "Top Secret" was within the public domain prior to "Top Secret" classification. This also addresses motive in withholding and misrepresenting.

161. In November 1976 my counsel, Jim Lesar, and I were among those who participated in a week of scholarly seminars at the Stevens Point Branch of the University of Wisconsin. Mr. Lesar is a law graduate of a different University of Wisconsin branch. My records are being deposited at the Stevens Point branch.

162. The Saturday of that week there was a sensational published account of this Mexico City taping allegedly of Oswald. It appeared first in the Washington Post and then throughout the world. To the FBI's knowledge, from its records that I do have, Ronald Kessler, after a leak to him, had been working on that story for months. I do not know the source of his leak.

163. Such matters generally are not recorded. The FBI's now well authenticated method is to generate and preserve false paper to be able to deny it leaked when it did the leaking. I have such records.

164. The 1976 situation may bear on who had motive for leaking and who stood to be injured by the leaking. The end of 1976 coincides in time with several ongoing Senate and House investigations. The standing intelligence committees had been established and the House had created a Select Committee on Assassinations (HSCA). There had been and then was Congressional criticism of both the FBI and

CIA, each of which preferred critical attention to be focused on the other. Kessler's story and the subsequent sensation directed critical attention toward the CIA, not the FBI.

165. Kessler went to Mexico and interviewed the CIA personnel involved in the interception and the transcription of the tape, those taken to Dallas by Rudd. HSCA staff also did this.

166. Because this information was included in my requests both CIA and FBI had ignored, the Saturday morning of first publication I asked counsel to telegraph the Attorney General. In my presence he did, from Wisconsin. From 1976 to now I have received neither response nor compliance. There has been no action on my appeal. I believe the telegram was not even acknowledged by the Department.

167. When we reached the Chicago airport on our return the next day, a Sunday, attention to Kessler's sensation was so great that even as a "second day" story it took up virtually the entire front page of a major Chicago newspaper.

168. The date of the withheld teletype routing slip coincides in time with the continuation of the House Select Committee on Assassinations. It had been involved in unseemly public controversy between its chairman and chief counsel and staff director, then the well known former Philadelphia prosecutor, Richard Sprague. The committee had announced its determination to investigate the Kessler story fully. It had already conducted a preliminary investigation. At the time of this routing slip and belated "Top Secret" classification of the teletype, the FBI had ample motive for not wanting the information in the teletype to be known to the committee. It has similar motive for not wanting me to have that and the related information that is still withheld more than three years after my requests. Complicating official problems and adding motive for withholding is the fact that the officially declared assassin of the President was reported to have served both FBI and CIA.

169. In short, and in much greater detail than I have provided, the information covered up in the unfaithful worksheets and improperly classified as "Top Secret" in March 1977 was within the public domain before the processing of the underlying records and their release, which is the subject of my instant request. All of this is covered up in the worksheets and is ignored in the FBI's affidavits in this instant cause in which the Department misrepresents to this Court even the information sought in my request. I emphasize that while my instant request includes the

worksheets, it is not limited to them, despite the persisting misrepresentation. My request is for all records relating in any way to the processing and release of the JFK assassination records.

170. Disclosure to others of what remains denied to me when I am the prior requester is one of the reasons for the request. This practice has enabled what amounts to official propoganda. If necessary, given time, I will produce proofs of this.

171. In Section 17 of FBIHQ 62-109060 as released to me in place of Serial 1338, which is an internal FBI record, one copy of the November 23, 1973, teletype, there is a referral slip. (Attached as Exhibit 30) It indicates that the record was referred to the CIA. A year and a half is ample time for action on a referral, whether or not the referral was necessary and proper, as in this case I believe it was not. There has been no action. This is consistent with the CIA's own stonewalling of many years in response to my general and specific requests, both of which include the withheld information. When the CIA would not comply with an inclusive request, claiming that required time, I made requests for small portions of the withheld information. The CIA then claimed that it would not process individual subject requests because it was processing the inclusive request. This extends whipsawing into a triple Catch-22, the CIA's, the FBI's and their joint one. Each agency stonewalls, then stonewalls for the other, and each then claims it has complied only the other one has not. In this case, because I made the same requests of both, each is in noncompliance and remains in noncompliance after leaks and public use of the withheld information. However, unless they are both in court simultaneously and unless courts become unwilling to be manipulated, this contrivance for circumventing and violating the Act will not end. Particularly not when both agencies, in the guise of letting all their soiled linens hang out for airing and cleansing, instead lock them in secret and top secret closets.

172. Under any circumstances this is unseemly and inappropriate, especially with a "Freedom of Information" Act. It belies the words and intent of the Attorney General in his "historical case" determination. This and the unfaithful nature of the Department's affidavits mock the Act and belittle and seek to make a rubber stamp of the Court.

173. What I have set forth in the preceding Paragraphs, I believe, is a good

faith effort to inform the Court fully and accurately about the issues and statements of the Benson affidavit and about noncompliance it seeks to perpetuate. I believe the Court cannot function without being fully and accurately informed. I believe that if I fail in the plaintiff's part of meeting this obligation, the Constitutional independence of the judiciary can be and in this case would be impinged upon by those whose long record of withholding public information caused the Congress to pass the Act so that these improper withholdings of what can be embarrassing to officialdom would end. In the case of records that address the functioning of our basic institutions in time of greatest crisis, when confronted with the most subversive of all crimes, I believe it is urgent for this Court to be as conversant with fact and motive as possible. Otherwise the judgment of the Court is preordained by those whose willingness to do these things is responsible for the Act and its 1974 amending.

174. What was then required of me by my part in that amending is an obligation I cannot in good conscience or good citizenship not assume now or if necessary in the future.

175. While I was drafting this affidavit, my counsel informed me that the Court had refused my request for a few more days of time. I planned to be in Washington in another court on Tuesday, February 13, and to give the executed affidavit to my counsel then. When I was informed of the Court's rejection of this request, I decided to add more information for the Court at whatever future time it might be appropriate. It then turned out that it was impossible for me to leave home because of heavy snow and dangerous roads at the predawn time required to be able to make the only bus that could get me to Washington in time.

176. The information I seek in this instant cause is of considerable historical importance. At my age and in my other limiting circumstances, I would not have made the request or followed it with litigation if I were not certain of the importance of the withheld information. Some of the importance is indicated in the preceding Paragraphs. Compliance with my request would provide information that will establish FBI and Departmental reluctance to disclose records of nonsecret nature relating to the investigation of the assassination of a President.

177. With me alone this reluctance goes back to May 23, 1966. With my formal information requests it goes back to January 1, 1968, or for more than 11

years. With many other requests, in all of which I am in a public rather than a personal role, there remains extensive noncompliance. The degree of the obdurate FBI refusal to abide by letter or spirit of the law is reflected by its continuing refusal to respond to simple written requests. It has refused to respond to such requests as asking it to set a time for my examination of records in its reading room after it writes to inform me that I must make such arrangements in advance. When a long time passed and I received not even an acknowledgment I filed a request under the Act and in many months it also has not been even acknowledged. My appeal, also after many months, has not been acted on.

178. When I cannot obtain from the FBI an appointment to examine information already released and then cannot obtain copies of this released information, I believe there is no question but that at least with me the record of the FBI is one of determined refusal to abide by the Act. It is also a record guaranteed to force unnecessary litigation that, while burdensome to plaintiffs and the courts, serves improper FBI political objectives.

179. In the face of this understated representation of a long record, well established in a number of courts, I believe it is not even-handed and fair to deny me a short period of time, a matter of a few days only, in which to safeguard my interests (and I believe those of the Court) to make an effort to avoid what could be needless prolongation of litigation and what from long experience I believe is essential, an opportunity to present information bearing on whether or not the Court has been fully and accurately informed by the other side.

180. I do not assume the Court intended unfairness.

181. I do assume that when there are material facts in dispute a case is not ripe for Summary Judgment. Material facts are in dispute in this instant cause. Refusing me an opportunity to confront what I believe I have proven in the preceding Paragraphs to be unfaithful representations to this Court foreclosed me from informing the Court. While this may not have been the intent of the Court, it is the result. I therefore believe that I must now include the reasons that required me to ask my counsel to ask for the short extension of time that was denied me.

182. I am nearing my 66th birthday. Three and a half years ago I was hospitalized for acute thrombophlebitis in both legs and thighs. Permanent, serious and potentially fatal damage had already resulted. In itself, this condition imposed

stringent limitations upon me. I live on an anticoagulant that is used to poison animals. I am under medical injunction to avoid even slight bruising, any cuts, no matter how minor, falling or any other kind of accident. I must keep my legs elevated whenever possible. It is no easy matter to do this when typing, for example, or when riding. I must also get up and walk around every 20 minutes or so, which is a serious intrusion into concentration. I live in a woods on the side of a mountain, not close to Washington, in a fairly isolated setting the Washington Post recently described as "Waldenesque." (This was in an article that indicates my centrist and independent position in the controversial field in which I work.)

183. In the summer of 1977 an added, serious and also potentially fatal arterial illness was diagnosed. For a long time the combination of these serious and potentially fatal medical problems restricted my activity even more. The supply of blood to my head and brain is impeded. Recently I lost consciousness and thereafter had an impaired sense of balance and occasional fuzziness in the head. My doctor does not now want to make any added invasive tests because of the danger from them. Another and complete examination and evaluation are set for two weeks hence.

184. My wife, who is my age, provides the only assistance I have, has glaucoma, degeneration of the hip joints and other medical problems that impair even her mobility. During all of the time since the Benson affidavit was filed she has moved only with pain.

185. Because of our medical problems it is necessary that there be access to us and that in any medical emergency we be able to leave home.

186. Our lane is the length of a football field. It is tree-lined, which causes snow to drift in it and shelters it from the sun and thus discourages the thawing of snow and ice. It is necessary for me to keep our lane open.

187. Our only regular income is from Social Security and a small sum my wife earns that is lower than the maximum permitted by Social Security. I thus must depend on myself in assuring ingress and egress under adverse weather conditions. There has not been a time since the season's first snow when our land has not been covered with snow. Keeping the lane open, while it is good medical treatment for me, also takes time, more time because of my age and impaired health.

188. From before Christmas to now I have ^{only once} been to Washington. In that

time I have not been as far as 10 miles from home. Only rarely have I been half that short distance away. My travel has been restricted to such necessities as obtaining medicines, seeing the doctor, having my blood tested and obtaining groceries.

189. From the time of my hospitalization in 1975 I have made and continue to make adjustments in my life, abandoning more and more of what I once enjoyed to be able to devote what remains of my life as completely as possible to the work I have undertaken. The Department itself states my knowledge is unique in this field. I believe that continuing my work serves an important public purpose. There is no fair way in which my course since I became aware of possibly fatal illness can be regarded as pursuing only personal interest and ends.

190. I have already given all my work and records to the public, through a free archive in a major university system. When I obtain information that is comprehensible without subject expertise or with short explanations, I arrange to give it away. I do this by providing it to the press and to others, without pay and at my own cost, even for the copies I provide. Last week, for example, I gave the St. Louis Post-Dispatch almost 800 pages of FBI records I had not even had time to look at. Those are relevant to the investigation of the assassination of Dr. King and to FBI practices. The records are St. Louis Field Office records. Not many weeks before that, as a result of years of effort and of litigation initiated in 1975, I obtained copies of two executive session transcripts of the Warren Commission. I made arrangements to provide them to the press immediately and did so the very afternoon I obtained them. Of the more than 20 sets of copies for which I paid the xeroxing cost, I gave away to others working the field all those not taken by the press. This is consistent with practice that predates my hospitalization.

191. If I were now pursuing personal interest, I would be writing books, not affidavits.

192. I have spent every moment I could on my Freedom of Information cases beginning before the filing of the Benson affidavit. I am involved in other cases and they also have requirements. However, I have had to slight some of the other cases in recent months because of the limitations of my present life, as indicated above.

193. As soon as it was possible after I received a copy of the Benson affidavit, I commenced drafting this affidavit. There has been no major interruption

in this for any personal activity. The only interruptions I recall were when the press and others consulted me because of my subject-matter expertise.

194. To preserve their integrity for the university archive, I keep all the records I obtain separate from the files from which I write. The only space I have for these records is in the basement of our home, where I keep all these records in the form in which I receive them. All the records relevant in this instant cause are filed and kept in the basement.

195. While I am able to walk and do some work fairly well, stairs present a real problem for me. Walking up a flight shortens my breath. Walking up two flights without rest is too much for me. Getting into the lower file drawers searching for records also presents problems for me that most people do not have. These limitations have slowed me down much in preparing this affidavit.

196. There also have been times when for several hours at a time any kind of work was impossible for me because of these health problems.

197. My record also establishes that I do not engage in causing official embarrassment. From my prior journalistic experience, I am aware of the possibilities for ridicule of Benson, the FBI, the Department and its counsel when all are involved in an affidavit swearing that the information it has already put within the public domain must be withheld in the interest of "national security," even suggesting that nuclear and important diplomatic and military matters also are involved in it. I also am well aware of the possible news interest in the November 23, 1963, teletype and its belated Top Secret classification and other relevant information I have.

198. I have wasted no time in the preparation of this affidavit. I am rushing it to the degree possible for me, to so great a degree that my wife was retyping it while I was still drafting it.

199. Under such circumstances as these, it was not possible for me to prepare the affidavit any sooner.

200. If I did not believe the information I provide is important and relevant, I would not now be taking time to add to what was drafted when my counsel informed me that the request for the few extra days had been denied.

201. I also am not unaware of the possibility of embarrassment to the Court from accepting an affirmation that what is within the public domain justifies "national security" withholding. If I desired embarrassment for the Court, I would

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FBI WASH DC

FBI NEW ORLS

11-11 AM 2-29-6

TO DIRECTOR 62

FROM NEW ORLEAN

ASSASSINAT

TEXAS, NOVEMBER

CONCERNING... 00

JFK
62-109060
SECTION 170
COPY 8

C-17 28-02-79
EXHIBIT 7

Y, DALLAS,

- INFO

THERE APPEARED IN THE FEBRUARY TWENTYEIGHT INSTANT ISSUE OF THE NEW ORLEANS TIMES PICAYUNE NEWSPAPER AN ARTICLE SETTING FORTH THE AFTERNOON SESSION OF THE TRIAL OF CLAY L. SHAW ON FEBRUARY TWENTYSEVEN INSTANT.

ACCORDING TO THIS ARTICLE, THE AFTERNOON SESSION CONSISTED OF THE PROSECUTION CALLING REBUTIAL WITNESSES.

THE FIRST WITNESS CALLED WAS EMMETT J. BARBE, WHO TESTIFIED THAT IN NINETEEN SIXTYTHREE HE WAS THE GENERAL MAINTENANCE FOREMAN FOR THE WILLIAM D. REILY COFFEE COMPANY OF NEW ORLEANS. HE TESTIFIED THAT DURING THIS PERIOD LEE HARVEY OSWALD WAS EMPLOYED IN THE MAINTENANCE DEPARTMENT AND THAT ON JULY NINETEEN, NINETEEN SIXTYTHREE IT WAS NECESSARY FOR HIM TO FIRE OSWALD. THE DEFENSE HAD NO QUESTIONS TO ASK BARBE.

END CORR LINE 14 WRD 6 SHLD BE JULY

PAGE ONE

3 MAR 5 1969

59 MAR 13 1969

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Handwritten notes:
62-109060-6804
Rafferty
5-11-69

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

CA 98-9249
EXHIBIT 2

UNITED STATES GOVERNMENT
Memorandum

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	

TO : Mr. Conrad

DATE: 3/27/64

FROM : R. H. JEVONS

SUBJECT: ASSASSINATION OF PRESIDENT
JOHN F. KENNEDY; 11/22/63
DALLAS, TEXAS

JR

Mr. Melvin Eisenberg, a member of the staff of The President's Commission, telephoned on the afternoon of 3/26/64, and inquired as to whether or not we had finished the Laboratory examinations of the bullets and cartridge cases involved in the murder of Officer J. D. Tippit (Officer Tippit was reportedly shot by Oswald.). My memorandum of 3/26/64, covered the results of these examinations.

Mr. Eisenberg was advised that the firearms examinations and the qualitative analysis (analysis for presence of chemical elements) of the bullet alloys had been completed; however, a quantitative analysis (determination of percentages of the chemical elements) had not been finished. Eisenberg replied that he did not desire the quantitative analysis of the alloys at this time; however, if this aspect proved to be of probative value, he would later request that this be done. The Commission was advised of results of the examinations by letter of 3/27/64.

ACTION:

For information.

105-82555

- 1-Mr. Belmont
- 1-Mr. Rosen
- 1-Mr. Sullivan
- 1-Mr. Malley

RHJ:feh (10) *feh*

SWC
Q
AP
- UNREC.

MAR 31 1964

SIS

329

PLH ITEM # 675

- 1-Mr. Belmont - Enclosures
- 1-Mr. Rosen - Enclosures (2)
- 1-Mr. Sullivan - Enclosures (2)
- 1-Mr. Malley - Enclosures (2)
- 1-Mr. Lenihan - Enclosures

March 27, 1964

By Courier Service

Honorable J. Lee Rankin
 General Counsel
 The President's Commission
 200 Maryland Avenue, Northeast
 Washington, D. C.

Dear Mr. Rankin:

The remaining three bullets from Officer J. D. Tippit's body were recently received from the Dallas Police Department and have been designated as C251, C252 and C253 in the Laboratory for identification purposes. These three bullets have been examined in the Laboratory and the results of the examinations are set forth below.

The C251 bullet is a caliber .38 Special copper-coated lead bullet of Winchester-Western manufacture. This bullet weighs 154.1 grains and was fired from a barrel rifled with five lands and grooves, right twist.

The C252 bullet is a caliber .38 Special lead bullet of Remington-Peters manufacture. This bullet weighs 154.8 grains. It was fired from a barrel rifled with five lands and grooves, right twist.

The C253 bullet is a copper-coated lead bullet of Winchester-Western manufacture. This bullet weighs 155.7 grains and was fired from a barrel rifled with five lands and grooves, right twist.

A portion of the surface of each bullet, C251, C252 and C253, is mutilated; however, microscopic marks remain on these bullets for comparison purposes. The C251, C252 and C253 bullets were compared with each other and with test bullets obtained from Oswald's revolver, C15, the .38 Special Smith and Wesson revolver, Serial No. V510210, Assembly No. C5248.

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

ENCLOSURE
 105-82555
 OBC:clh (10)
 APR 7 1964

[Handwritten signature]
 SPECIAL AGENT IN CHARGE

NOTE: See memo 3/26/64, R. H. Jevons to Mr. Conrad re: ASSASSINATION OF PRESIDENT JOHN F. KENNEDY, DALLAS, TEXAS, 11/22/63

330
 PLH ITEM # 672

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Honorable J. Lee Rankin

No conclusion could be reached as to whether or not C251 through C253 were fired from the same weapon or whether or not they were fired from C15. In addition, it was found that even consecutive .38 Special bullets test fired from the C15 revolver could not be identified with each other. In this connection, it should be noted that the barrel of C15 was designed for .38 S & W bullets and; therefore, it is slightly larger in diameter than barrels designed for .38 Special bullets. Firing of undersized bullets could cause erratic passage of the bullets down the barrel, resulting in individual microscopic characteristics which are not consistent. The barrel of the weapon could also be changing due to the accumulation of lead in the barrel or to wear. That one or both of the above conditions existed is apparent from the fact that consecutive .38 Special test bullets obtained from the C15 revolver could not be identified with each other.

Smith and Wesson revolvers such as C15 are among the weapons producing general rifling characteristics of the type found on C251, C252 and C253.

The lead alloy of the C251, C252 and C13 (the first bullet submitted by the Dallas Police Department in the Tippitt case) Winchester-Western copper-coated bullets was spectrographically examined. This lead alloy was found to be qualitatively similar in composition to the lead alloy of the Western copper-coated bullets in the C51, C52, C55, C56, C57, C58, C59 and C137 cartridges. It is noted that these cartridges were among those obtained from the C15 revolver, Lee Harvey Oswald's pocket and the U. S. Secret Service.

The lead alloy comprising the C252 Remington-Peters bullet was spectrographically examined and found to be qualitatively similar in composition to the lead alloy comprising the Remington-Peters bullets in the C53, C54 and C139 cartridges, the remaining cartridges from the above sources.

There are attached photographs of the three bullets.

Sincerely yours,

J. Edgar Hoover

Enclosures (3)

Memorandum

TO: MR. W. C. SULLIVAN *WCS*

FROM: MR. W. A. BRANIGAN *WAB*

SUBJECT: PUBLIC DISCLOSURE OF
WARREN COMMISSION RECORDS

- 1 - Mr. Belmont
- 1 - Mr. Callahan
- DATE: 7-29-65
- 1 - Mr. Conrad
- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Malley
- 1 - Mr. Branigan
- 1 - Mr. Stokes

9/28/65

8108-9249

EX-118-4

Callahan _____

Trotter _____

Tele. Room _____

Holmes _____

Gandy _____

WCS

WAB

Malley

Stokes

Memorandum from Mr. Rosen to Mr. Belmont dated 7-12-65 set forth facts concerning request of the Attorney General that we review pertinent documents in the possession of the National Archives relating to the assassination of President Kennedy for the purpose of recommending which of the material on file can be placed in the public domain. The Department furnished us with a set of guidelines to follow in making our review. (Copy of these guidelines is attached.) We have now completed our review of the pertinent material on file at the Archives. The purpose of this memorandum is to set forth our findings and our plans to complete this project.

We have reviewed over 2,000 documents and are prepared at this time to indicate which of these documents can go into the public domain as is. In our review we have been guided by the overriding policy favoring the fullest possible disclosure of this material. Our review has noted the reporting of some information which falls within the guidelines for excision and we are prepared to recommend the excision of such material on a page-to-page basis.

Examples of such material which falls within the guidelines are as follows:

REC-32 *62-109090-463*

Guideline 1 - Statutory requirements that prohibit disclosure. Example - Records of the Family Court in New York City concerning psychiatric treatment of Oswald as a youth.

Guideline 2 - Respect of security classifications. Examples - It has been necessary to classify some of our material in order to protect sensitive informants and investigative techniques, and in line with classifications afforded material by other agencies. Examples - Considerable information was obtained from long-established sensitive sources of the Legal Attache in Mexico City. An anonymous source and a trash cover furnished some information reported and classified data from the Central Intelligence Agency (CIA) is among the material. We are, at this time, reviewing the Administrative Pages of our classified documents to determine if

JCS:hrt
(9)
Enc.

CONTINUED - OVER

ENCLOSURE

FROM SECTION 27

PLH ITEM # 405

332

Memorandum

TO : Mr. A. H. Belmont

DATE: February 3, 1964

FROM : Mr. W. C. Sullivan

- 1 - Mr. Belmont
- 1 - Mr. J. P. Mohr
- 1 - Mr. Rosen
- 1 - Mr. Callahan
- 1 - Mr. W. C. Sullivan
- 1 - Mr. Branigan
- 1 - Mr. Baumgardner
- 1 - Linson
- 1 - Mr. Foarde

~~SECRET~~

SUBJECT: LEE HARVEY OSWALD
IS - R - CUBA

The Director has requested further analysis of the operations of SA Henry N. Wade while Wade was serving in the Bureau's Special Intelligence Service (SIS) in Ecuador. The requested information is set forth herein.

SA Wade entered on duty on December 4, 1939, and resigned September 1, 1943, to enter the Armed Forces. On June 1, 1942, he was placed on leave without pay after completing five weeks of SIS training. He left New Orleans, Louisiana, on August 3, 1942, and arrived in Quito, Ecuador, on August 16, 1942. He was in an undercover capacity as an employee of Transradio Press Service Incorporated, 521 Fifth Avenue, New York City. He was assigned SIS Number 345 and used the code name "James" in signing communications. Within Ecuador, he was referred to as Confidential Informant Number 6. He left Ecuador 5/2/43

As an undercover man, Wade was not directly associated with the Legal Attache's Office in Quito but did submit his vouchers and reports through that office. He was also given a post office box in New York City through which he could communicate directly with the Bureau. While in training he received Spanish lessons, a course in coding and secret inks, and definite instructions regarding preparation of his expense vouchers.

Wade submitted vouchers twice monthly through the Legal Attache who reviewed and forwarded them to Bureau. They were then checked and approved and a check was transmitted to the SIS Office in New York City for Wade's account. The monetary unit in Ecuador is a sucre which was, during Wade's tenure, 7.3 cents or \$7.30 per hundred.

File review shows Wade operated under a system of controls requiring him to furnish complete data identifying informants used and payments made. It was policy to insist that receipts be obtained whenever possible. In the few instances where informants refused to sign receipts, Bureau was furnished all other data and record was still made of payment and informant who received same.

Enclosure

JJF:bmf
(10)

Classified by 2048
Exempt from automatic
downgrading and
declassification

NOT RECORDED

22 FEB 25 1964

PERS. REC. UNIT
PLH WEM #724

333

Memorandum

CA 98-2...
EXHIBIT 16
SEARCHED
SERIALIZED
INDEXED
FILED
FEB 11 1964
FBI - NEW YORK

TO : A. H. BELMONT *Wac*

DATE: February 4, 1964

FROM : W. C. SULLIVAN *W.C.S.*

0
Presidents

SUBJECT: LEE HARVEY OSWALD --
INTERNAL SECURITY - RUSSIA - CUBA

Our attached memorandum, 2/3/64, details the Special Intelligence Service (SIS) operations of former SA Henry M. Wade, particularly his handling of informants. With regard to the \$1,075 advance received by Wade before going to Ecuador, the Director has asked whether there was an accounting for this money. The Director also asked to see the copies of Wade's vouchers and of receipts received from informants by Wade. This is to provide the requested information.

With regard to the \$1,075 advance to Wade on 7/6/42 before he left for Ecuador, this money was completely accounted for by Wade and was paid back to the Bureau in four installments. Wade's voucher for July, 1942, listed his expenditure for passage from New Orleans to Ecuador. Accordingly, when this voucher was paid, on 9/4/42, \$402.47 was withheld to be deducted from his advance account. The balance of \$672.53 was paid back to the Bureau by Wade in three installments during June, 1943, after his return to this country. Two installments, totaling \$587.48, represented money which would have been paid to Wade for vouchers submitted by him covering his legitimate expenditures during the last month he was in Ecuador and included \$307.55 for his air travel from Quito to Washington. Instead, this money was credited to the advance fund of Wade. The remaining \$85.05 was repaid to the Bureau on June 4, 1943, by deducting this amount from money due Wade on an expense voucher for the period 5/15-31/43 after he was back in the United States. Therefore, the total amount advanced to Wade was completely accounted for and repaid to the Bureau in the form of deductions by the Bureau from money due him on his vouchers which itemized expenditures in detail. A copy of the Bureau's ledger sheet on Wade's advance account is attached.

2 Copies of the vouchers submitted by Wade while in Ecuador and the receipts he received from informants there are attached. In a few instances, we even have receipts from sub-informants who assisted Wade's informants but were not paid directly by Wade. As mentioned earlier, Wade had SIS #345 and, within Ecuador, was referred to as Confidential Informant #6. He also used the code name "James."

Enclosures

- 1 - Mr. Belmont
- 1 - Mr. J.P. Mohr
- 1 - Mr. N.P. Callahan
- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Branigan
- 1 - Mr. Baumgardner
- 1 - Liaison
- 1 - Mr. Forde

JJF:gp

(10)

2 MAR 5 1964

ITEM # 725

334

ORIGINAL FILED

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

UNITED STATES GOVERNMENT

Memorandum

SAC, DALLAS (89-43)

DATE: 11/25/63

FROM:

SA MILTON L. NEWSOM

SUBJECT:

ASSASSINATION OF PRESIDENT KENNEDY

Mr. WALTER BENT, Sales Service Manager, Eastman Kodak Company, Processing Service Division, 3131 Manor Way, telephone FL 7-4654, Dallas, telephonically advised his company had received two rolls of 8 millimeter Kodachrome and one roll of 35 millimeter film in a package from Mr. CHARLES BRONSON, Chief Engineer, Zarel Mfg. Company, 9230 Denton Drive, Dallas, Texas.

Mr. BRONSON enclosed a letter with his film, stating that the film had been taken at the instant President KENNEDY was assassinated. BRONSON also advised in the letter that from the position he was stationed when he took the film, he feels quite certain the Texas School Book Depository building was clearly photographed and he feels that the window from which the shots were fired will be depicted in the film. He stated for this reason he believes he may have a picture of the assassin, as he fired the shots.

Mr. BENT stated Mr. BRONSON's letter indicated he desired to be cooperative regarding the film with proper authorities and BENT is of the opinion that BRONSON will have no objection to turning the film over to proper authorities in the event it is of value to the investigation.

Mr. BENT stated that he would make arrangements with Mr. BRONSON to view the film at the Kodak Processing Center and would arrange this so that FBI Agents could be present at the same time interview BRONSON concerning his film of the scene.

Mr. BENT assured his full cooperation regarding all film received of a like nature that may possibly be connected with this matter and arrangements were made with him to immediately notify SA NEWSOM of any film of possible value.

2 Dallas

MLN:rmb

(2)

89-43-518

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 25 1963	
FBI - DALLAS	
Newsom	

335

DL B9-43

The Eastman Kodak Processing Service Division receives all color film made by 8 millimeter Kodachrome in this area and also most other film for the area is processed by this division. Mr. BENT explained that his employees have not worked since Saturday and they are due back to work at 1:30 PM, 11/25/63. When processing of recent film orders begin, he expects other films taken at the approximate time of President's assassination.

He said that BRONSON's film should be processed and ready for viewing by 3:00 PM. He was told that SA NEWSOM would meet with him at that time.

Memorandum

SAC, DALLAS (89-43)

DATE: 11/25/63

FROM: SA MILTON L. NEWSON

SUBJECT: ASSASSINATION OF PRESIDENT KENNEDY

Mr. WALTER BENT, Sales Service Manager, Eastman Kodak Company, Processing Service Division, 3131 Manor Way, and Mr. CHARLES BRONSON, Chief Engineer, Zarel Manufacturing Company, 9230 Denton Drive, were contacted by SAS MILTON L. NEWSON and EMOY E. HORTON on 11/25/63.

Films taken by Mr. BRONSON at the time of the President's assassination including 35 mm. color slides which were taken with a Leica Camera, and 8 mm. Kodachrome film were reviewed. These films failed to show the building from which the shots were fired. Film did depict the President's car at the precise time shots were fired; however, the pictures were not sufficiently clear for identification purposes.

One of the 35 mm. color slides depicted a female wearing a brown coat taking pictures from an angle, which would have, undoubtedly, included the Texas School Book Depository Building in the background of her pictures. Her pictures evidently were taken just as the President was shot. Approximately five other individuals in the crowd were taking pictures at the time.

Arrangements have been made with Mr. WALTER BENT whereby each package of film received for processing by that company, will be returned to the owner of the film with a slip of paper attached requesting the individual to notify the local FBI Office in the event pictures in the package reflect the scene when the President was assassinated. Mr. BENT advised this company does the processing for all the southwestern states. An airtel is being furnished southwest offices notifying them of the above arrangements in the event they receive calls of this type.

2 - Dallas
MLN/ss
(2) ds

89-43-493

SEARCHED	INDEXED
SERIALIZED	FILED
NOV-25 1963	
FBI - DALLAS	

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

CA 78-0249
EXHIBIT 9

UNITED STATES GOVERNMENT
Memorandum

TO : SAC, DALLAS

DATE: 11/26/75

FROM : CLERK

SUBJECT: ASSASSINATION OF PRESIDENT
JOHN F. KENNEDY

On November 26, 1975, LIXIE YATES, 1247 S. Britain, Irving, Texas, telephone number 254-8844, telephonically contacted the Dallas office of the FBI with the following information:

YATES stated that her daughter, LINDA CAROL YATES, worked as a secretary for maintenance at Braniff Airways in 1963. YATES stated that her daughter, LINDA, died after an operation in March 1974. While YATES was going through her personal effects, she came upon 14 black and white snapshots that had been taken by someone, possibly Braniff Airways, of President KENNEDY and his wife landing at Love Field on November 22, 1963. Four of the 14 photographs are of the Texas School Book Depository, one of which is a close-up. The other ten photographs are of President and Mrs. KENNEDY as they landed, deboarded, and entered their limousine at Love Field. At least one of the photographs of the Texas School Book Depository is not of the motorcade in front, but of the building itself. There is another photograph of the building showing the motorcade in front.

YATES stated that she has been in possession of these photographs since her daughter's death, but only upon viewing the CBS documentary about the Assassination on November 26, 1975, did she decide to notify the FBI. To her knowledge, the photos have never been seen before.

YATES stated that she would be glad to furnish these photographs to the FBI, but stated that she would like to eventually have them returned. YATES seemed to express a genuine desire to help the FBI and was not derogatory in any way. YATES was told she would be contacted by an agent re these photographs.

*4/1/75
17 copies of all photos
made
11/11/63 & then 3 taken
TS&D building on main
from where new photos
she will return
RBZ*

84-43-9676

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 26 1975	
FBI - DALLAS	

James Long

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

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, DALLAS (100-10461)

DATE: 12-30-63

FROM : SA WILLIAM G. BROOKHART

SUBJECT: LEE HARVEY OSWALD, aka
IS R CUBA

On 12-27-63, Mrs. JAMES D. SCRUGGS, 3215 O'Bannon Drive, Dallas, Texas, made available to SA WILLIAM G. BROOKHART a magazine of 8 mm Kodachrome II taken by her son, JAMES ROBERT SCRUGGS, using a Bell and Howe 8 mm Zoomatic Director Series camera.

Mrs. SCRUGGS was given a receipt for the above-described film.

In view of the fact that JAMES ROBERT SCRUGGS has advised that the films he took do not include the assassination of President KENNEDY, and there are other films available of the Presidential Motorcade, these films are being returned to Mrs. SCRUGGS undeveloped and the receipt furnished to SA BROOKHART will be obtained and enclosed in the 1-A exhibit of this file.

WGB:mvb
(2)

100-10461-2135

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 31 1963	
FBI - DALLAS	

339

See ??

67-11700-5000

CA 78-0249
EXHIBIT 11

Inventory Worksheet
FD-503 (3-18-77)

File No: _____ Re: _____ Date: _____ (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
6838	4/21/69	Airtel Fm N.Y.O.	1	1	B7C
6838	4/21/69	LHM	1	1	None
6839	3/19/69	AG let to a USA	1	1	None REFER
unrecorded	4/26/69	Citra let to Hoover	1	1	None
"	5/1/69	Bulet reply to above	1	1	None
6840	3/28/69	Jevons to Conrad	2	2	None
6841	4/30/69	Airtel Fm N.O.	1	1	None
○ —	—	Searching Indices Slip	1	0	None b7c
6841	—	NEWS Articles	2	2	None
—	—	████████ Routing Slip b1	1	0	TO OGRU b1
6842	4/30/69	████████ Report	1	0	██ b1
6843	5/10/69	Let Fm Columbia	1	1	B7d

340

Inventory Worksheet
FD-503 (2-18-77)

File No:

Re:

Date:

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
6843	5/10/69	L.H.M.	9	9	B7C(p.4,5) p.8,9 b1,7
6844	5/9/69	Let Fr Legat	1	0	TO DCRU
6844	4/69	Telegram fr Military Intell	2	0	referred to Army
-	-	Citizen letter and True copy	3	3	None
6845	5/19/69	Bulet reply to above	1	1	None
-	-	[redacted] Routing Slip	1	0	referred to DCRU b1 ← b1
6846	5/16/69	[redacted] Report b1	1	0	referred to DCRU b1
Unrecorded	5/1/69	Jones to Bishop	1	1	None
6847	5/21/69	let Fr Omaha	1	1	None
6847	5/20/69	Letter Fr Citizen	1	1	None

11

5 2772

File No: 42-109060

Re: J.F.K.

Date: 8/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
6848	4-7/76	CHANGED TO Media	1	1	None
6849	5/2/69	██████████ ← b1 REPORT	2	0	(B1)-DCRU
6850		"CHANGED TO"	1	1	
6851		"CHANGED TO"	-	-	
UNREC	b1 →	██████████ TRANSMITTAL ^ To DIRECTOR	1	0	(B1)-DCRU <i>explor!</i>
6852	4/4/69	DALLAS AIRTEL	6	5	None <i>1st</i>
6853	6/9/69	JFK TO HANSON	2	2	None
UNREC	6/16/69	Buairtel To Minn	1	1	b7c
UNREC	6/12/69	Phoenix AIRTEL <i>4/1/69</i>	3	3	None
UNREC	6/4/69	Buairtel To Minn	2	2	b7c
UNREC	6/5/69	New Orleans AIRTEL	9	9	None
6854	6/12/69	MINNAPOLIS LETTER	1	1	None

566 155

Inventory Worksheet
FD-503 (2-18-77)

File No: 62-109060

Re: JFK

Date: _____
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
7422	11/24	Bu TP LA	1	1	
7423	11/19	Booker memo to Gallagher	3	3	
7424	11/26	LA: TP Bu	2	2	(7E) claim info + FBI re for airtel
7424a	11/26	NC let Bu (encl)	11	0	PERM (DIP) * CONFIDENTIAL BI DIJ
7425	11/24	CMR let Detroit	1	1	
7426	11/31	DOT let Bu	2	2	
7427	11/26	Bu airtel	3	3	
7428	11/28	DL all Bu airtel	5	5	
7429	11/25	LA airtel Bu	1	1	
7429	11/25	LHM	2	2	
7430	11/19	LA TP Bu	1	1	
	11/24	SE let Bu	1	1	

7/23

Inventory Worksheet
FD-503 (2-18-77)

File No: 62-109060

Re: JFK Section 194

Date: _____
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
7436	1995 12/10	DL all Bu	1	1	
7437	12/3	DL all Bu	1	1	
7437	12/3	LHM	6	6	Referral returned via 475 15 PSS (92) crim. info re activities
7437r	12/3	Bassett memo to Callahan	4		(b)(7) [redacted] info DECU* b1 ↓
7437r1	12/3	Bu let DOJ	7		(b)(7)(c) [redacted] info DECU*
7438	11/26	JK all Bu	2	2	
	11/26	LHM	15	15	(2) none of alleged murder
7439	12/11	NH let Bu	2	2	
	12/11	LHM	5	5	
7440r	12/1	LA let Bu	1	1	
7440	12/1	HO let Bu	1	1	
7440	12/1	LHM of encl	7	7	(2) info relating murder & other prim. info

664

Inventory Worksheet
FD-503 (2-18-77)

File No: 62 709060

Re: JFK

Date: _____ (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
7576	10/8	CMK let. Sen. Brown	2	2	
7577	10/2	Faught let CMK	2	2	
7577	10/12	CMK let Faught	1	1	
7578	10/4	Bu TP KC	4	0	not released Refs to CIA
	10/6	Cook memo to Gallagher	1	0	SI - DEK
	10/5	DD memo	2	2	Refs to DD & CIA
7579	11/5	KC TP Bu	4	4	b1 ↓
7580	10/7	Cash memo to file	30	20	(70) Reference to CONFIDENTIAL Refs to DOJ Possible b1
7581	10/9	" " " "	20	20	Refs to DOJ
7582	10/9	" " " "	1	1	
	10/10	SO a/l Bu	1	1	Refs to DOJ
7583	10/9	ME a/l Bu	2	2	b7c

342

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060

SERIAL NO. 6842

PAGE NO. _____

NO. OF PAGES 2

SECTION NO.

170

Royal Canadian Mounted Police

REFERRAL

346

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060

SERIAL NO. 6846

PAGE NO. _____

NO. OF PAGES 2

SECTION NO.

170

Royal Canadian Mounted Police

REFERRAL

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060

SERIAL NO. 6849

PAGE NO. _____

NO. OF PAGES 2

SECTION NO.

171

R.C.M.P.

REFERRAL

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060

SERIAL NO. UNREC. TRANSMISSION SLIP

PAGE NO. _____

NO. OF PAGES _____

SECTION NO.

171

RCMP

REFERRAL

UNITED STATES GOVERNMENT

Memorandum

CA 75-0248
EXHIBIT 16

- Asst. Dir.
- Dep. AD Adm.
- Dep. AD Inv.
- Asst. Dir.:
- Adm.
- Comp. Syst.
- Ext. Affairs
- Files & Com.
- Gen. Inv.
- Ident.
- Insp.
- Intell.
- Labors.
- Legal
- Plan. & Eval.
- Spec. Inv.
- Training
- Telephone Rm.
- Director Sec'y

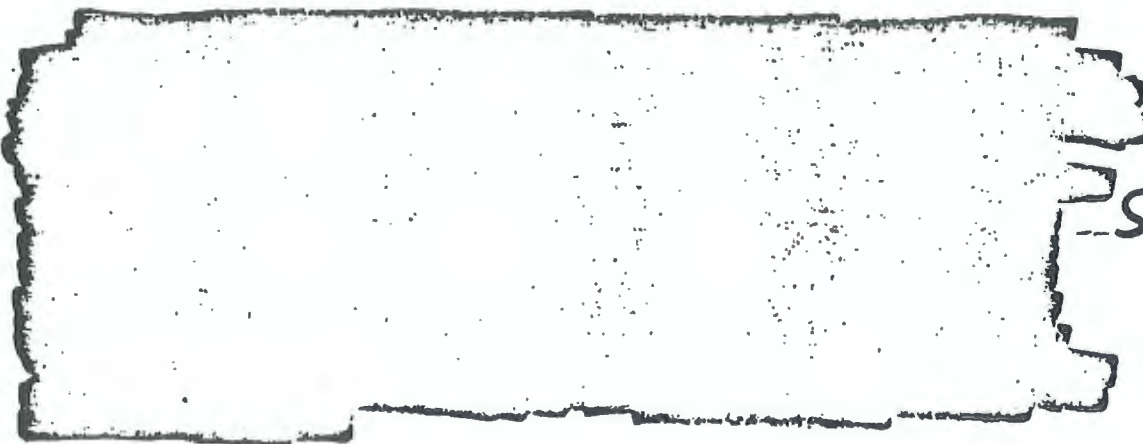
TO : MR. CALLAHAN

DATE: December 3, 1975

FROM : H. N. BASSETT *HNB*

SUBJECT: ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

Reference is made to memorandum of 11/14/75 from Legal Counsel to Mr. Adams captioned "Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary" and the addendum of the Inspection Division, 11/18/75 (attached).



Referenced memorandum set forth results of the inquiry which had been conducted to date which clearly showed discrepancies in Hosty's allegations and it was recommended that Hosty be reinterviewed and confronted with the results of our inquiry. The Director agreed with this recommendation and also stated "Go all the way."

ST 100 87 7437X



Enclosures - *Sent 12-4-75*

- 1 - Mr. Adams
- 1 - Mr. Mintz
- 1 - Mr. Wannall

NOV 18 1976

ST 100

CONTINUED OVER

7 HNB:bhg
1 (5) 12/6

Form 3062
Rev. 11-17-73
GSA GEN. REG. NO. 27

350

Memorandum to Mr. Callahan
Re: Assassination of President John F. Kennedy

As an aside, Mr. Stern advised that he had been sent various news clippings concerning the Oswald visit to the Dallas Office prior to the assassination and the subsequent destruction of the note which Oswald had left. He asked me if I had reviewed Hosty's testimony before the Warren Commission and I told him that I had on two or three occasions. He inquired that in this review had he, Stern, asked any question of Hosty that might have elicited the fact that Oswald had visited the office. I told Mr. Stern that he had not asked any such question. He stated that he felt bad about this because apparently he had fallen down on his job although he agreed that he might not have received a truthful answer had he asked the key question. He further stated that certainly Hosty had had ample opportunity to advise him of that development during the conferences which he had held with Hosty prior to the latter's actual testimony. He asked if I would send him a transcript of any testimony which Hosty may subsequently furnish in which his, Stern's, name is mentioned and I told him that I would be glad to comply with his request.

OBSERVATIONS



Of particular significance is the fact that Hosty in his sworn statement of 11/14/75 specifically stated that upon his return to the Dallas Office following his testimony he noted "My name had been crossed out and former Assistant Special Agent in Charge Kyle Clark had written his name below mine and had initialed it for filing." There is no other way of interpreting this other than a categorical statement on Hosty's part; however, when confronted with the actual serial showing that Clark's name appeared nowhere on it he states, "I had assumed Clark's initials would have been on this serial since this case had been reassigned to Clark sometime after 11/22/63." It is noted that Hosty is due to be interviewed by representatives of the House Subcommittee on Civil and Constitutional Rights on 12/4/75.

Memorandum to Mr. Callahan
Re: Assassination of President John F. Kennedy

RECOMMENDATIONS

1. That no further inquiry be conducted relative to this particular issue.

2. That the attached communication be forwarded to the Department advising them of Hosty's allegation and the results of our inquiry.

Handwritten signature

Handwritten signature

Handwritten initials

CA 78-0249
EXHIBIT 17

[Handwritten signature]

The Attorney General

December 3, 1975

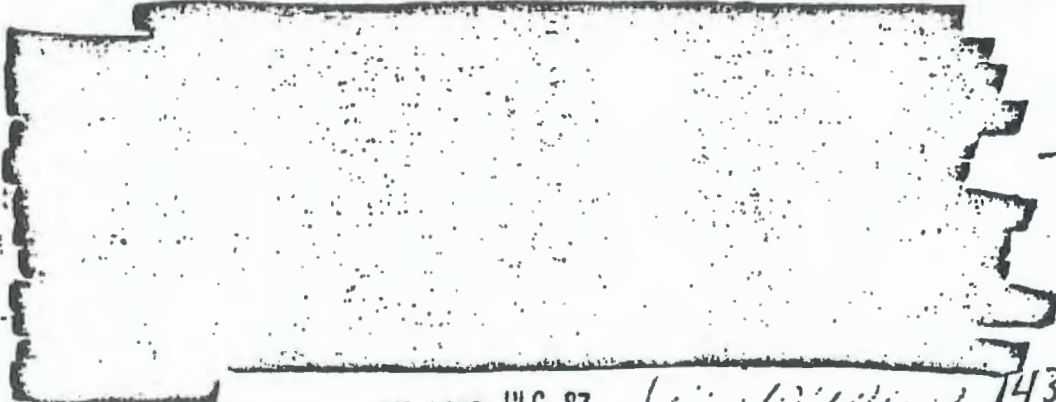
fat

Director, FBI

FEDERAL GOVERNMENT

ASSASSINATION OF PRESIDENT JOHN F. KENNEDY
EXHIBIT

Reference is made to my memoranda of July 29, 1975, and October 1, 1975, captioned as above, which advised you of the results of this Bureau's inquiry concerning an allegation that Lee Harvey Oswald had visited the FBI office in Dallas sometime prior to the assassination of President Kennedy for the purpose of talking to Special Agent (SA) James P. Hosty, Jr. In the absence of Mr. Hosty, Oswald allegedly left a note which was threatening in nature. This visit and note were not reported following the assassination of President Kennedy by Oswald.



MAILED 7
DEC 6 1975

S

SI 1097 INC-87

1437X1

SA Hosty, on November 14, 1975, furnished a sworn statement (attached) to SAC Williams in which he advised as follows: NOV 18 1976

- Assoc. Dir.
- Dep. AD Adm.
- Dep. AD Inv.
- Asst. Dir.:
- Admin.
- Comp. Syst.
- Ext. Affairs
- Files & Com.
- Gen. Inv.
- Ident.
- Intell.
- Laboratory
- Plan. & Eval.
- Spec. Inv.
- Training
- Legal Coun.
- Telephone Rm.
- Director's Sec'y

- 1 - Mr. Adams (Sent Separately)
- 1 - Mr. Mintz (Sent Separately)
- 1 - Mr. Wannall (Sent Separately)

SECRET

Department notified of
See Note Page 7.
5/18/77 DJC/

JAC:jmh
(9)

MAIL ROOM TELETYPE UNIT

Classified by 3002
Declassify on: OADR
Date of classification indefinite

DEC 4 11 30 AM '75

GPO : 1975 O - 501-100

353

The Attorney General

[REDACTED]

S

[REDACTED]

S

[REDACTED]

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[REDACTED]

S

Upon his return to the Dallas Office following this testimony he had occasion to look in volume I of the Oswald file and noted that both copies of the airtel were then the top serial in this volume. He observed that his name had been crossed out and former Assistant Special Agent in Charge (ASAC) Kyle Clark had written his, Clark's, name below Hosty's name and initialed the airtel for filing. He concludes that from the afternoon of November 22, 1963, until sometime in May, 1964, former ASAC Clark had retained the serial in his possession; however, felt that this would be proper in view of the fact the case was reassigned to Clark shortly after the assassination.

SECRET

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The Attorney General

He stated he had not previously furnished this information concerning this particular airtel and its contents because it did not appear to be pertinent to previous inquiries until it became apparent that the House Committee might reopen the entire Oswald case.

Upon being advised of the contents of SA Hosty's sworn statement, the SAC of the Dallas Office was instructed to review pertinent files in his office. It was determined that the Washington Field Office airtel to the Director, two copies to Dallas, dated November 19, 1963, is serial 57 in the Oswald file (Xerox copy attached). A review of this serial determined that SA Hosty's name is crossed out in the block stamp but is initialed for filing by an individual using the initial "H." Former AFAC Clark's name does not appear on this serial, and it is believed highly probable that the initial "H" in this block stamp is that of Supervisor Howe. This determination is based on the following information contained in the Dallas files:

Serial 50 of the Oswald file is a copy of an airtel with two enclosures which the New Orleans Office sent to the Bureau, with copies to Dallas, dated October 24, 1963 (Xerox copies of this serial and the two enclosures, serials 49 and 48, attached). On serial 50 there appears the following handwritten notation: "48 - 49 - 50 c/o to JFH 10/28/63. Obtained from his box and initialed into file to complete file following 11/22/63 H." The interpretation of this written notation is as follows:

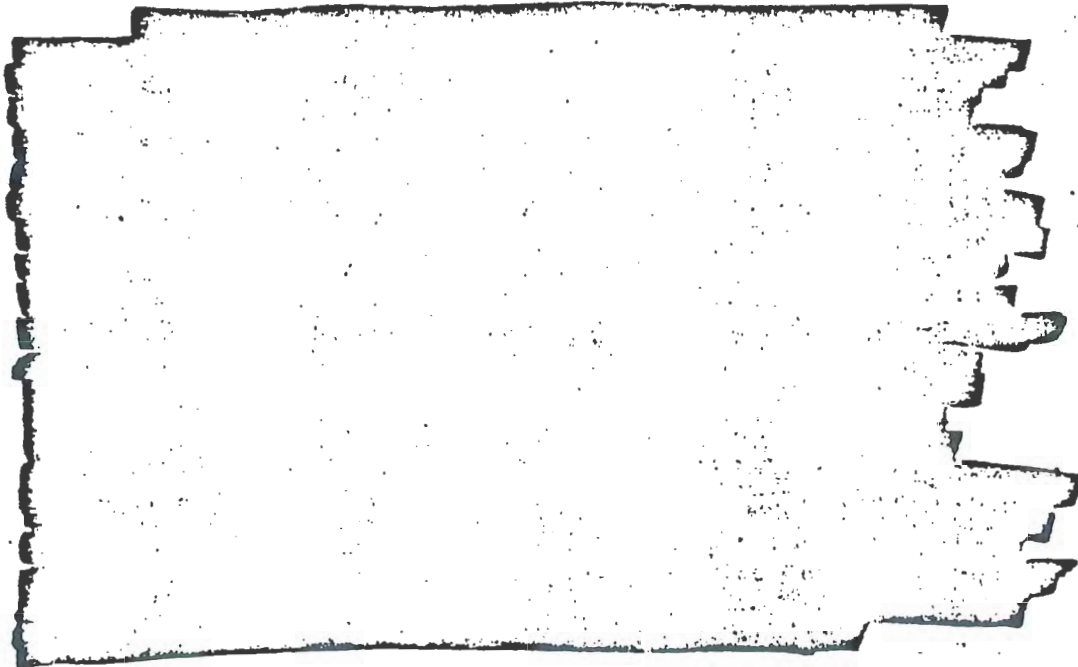
These three serials were charged out to SA Hosty on October 28, 1963, and apparently were still in his workbox the date of, or shortly after, the assassination and initialed into the case file by Supervisor Howe in order to have continuity of an extremely fast-moving case. It is also noted that SA Hosty's name is crossed off on all three of these serials and apparently initialed into the file by Supervisor Howe. While no such written notation appears on the above-mentioned serial 57, it is logical to assume that the same action was taken on this serial in order to get all pertinent material into the Oswald case file. The SAC, Dallas, in furnishing this information, advised that the "H" appearing in these block stamps is not identical to the "H" which SA Hosty used when initialing mail for file.

The SAC, Dallas, has also advised that the Oswald file has been "stripped" which means that duplicate copies of various serials in the file have been destroyed. This is standard operating procedure in our Chief Clerk's Offices in order to conserve space, and when a file is being stripped

The Attorney General

and there are duplicate serials available, the action copy is retained in the file. It can only be assumed that the second copy of the airtel in question has been destroyed since it was not located in any other logical file in the Dallas Office, such as the file on Marina Oswald or the assassination file itself. However, under normal operating procedures, when two copies of a communication are received in an office, both copies are block stamped; one is initialed by the supervisor for filing, known as the file copy, and the other copy is routed to the Agent who has the case assigned to him, known as the action copy. We know in this instance that the action copy has been kept since indexing is done from this copy and the one in file shows indexing of a name mentioned in the communication.

While the Chief Clerk in Dallas could not be positive, it is her definite opinion that after the stripping occurred, the various volumes were consolidated in order to save space. It has been determined that volume I of the Oswald file now contains 174 serials, thus placing serial 57 in the first half of this volume.



The Attorney General

[REDACTED]

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[REDACTED]

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In conclusion, SA Hosty stated that after reviewing copies of the above-referred-to serials, it appears that serials 48, 49 and 50 were placed in the file as the note indicated, to bring the file up to date. He states it is possible serial 57 was handled in the same manner; however, he still has doubts this was true with serial 57 because he was unable to locate either copy in the file and because of the statement made by Mr. Belmont that he was not to see this airtel.

357

The Attorney General

[REDACTED]

(S)

Inclosures - 6

1 - The Deputy Attorney General (Enclosures - 6)

1 - Assistant Attorney General
Criminal Division (Enclosures - 6)

NOTE: Based on memorandum Bassett to Callahan, dated 12/3/75, captioned
as above. HNB:bhg.

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060

SERIAL NO. 7437

PAGE NO. _____

NO. OF PAGES. 7

SECTION NO.

184

Sec Service

REFERRAL

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THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060
SERIAL NO. 7580
PAGE NO. _____
NO. OF PAGES 30

SECTION NO.
187

DOJ

REFERRAL

Inventory Worksheet
FD-503 (2-18-77)

6
CC-52772

File No: 105-82553
#69

Re: Lee Harvey Oswald

Date: 8/77
(month/year)

CA 98-0209
EXHIBIT 20

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1487	1/24/68	Bu tel - Mi	1	1	
1486	1/22	^{memo} Brunner → Sullivan	1	1	
1488	1/24	Bu A/T → WFO	1	1	
1489	1/20	SF NY → BU	2	2	
1490	1/21	^{memo} Malley → Rosen	1	1	
1491	1/22	^{memo} Rosen → Belmont	1	1	
1492	1/23	LA tel → Bu	1	1	
1493	1/24	AQ RDO → BU	1	1	
1494	1/16	^{memo} Boneyon → Sullivan	3	3	p 3 62 possible b1 for [redacted] on pages 3, 4, 5 b15
1495	1/17	KC tel → Bu	1	1	b7d
1495	1/20	Bu tel - K.C.	1	1	b7d
1496	1/23	Bu let (lab) → DC	2	2	

193

GC-52777

File No: 105-82555

Re: CEE HARVEY OSWALD

Date: 4/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
2090	2/25/64	BU Tel - Charlotte	1	1	
2090	2/22	DL A/K - BU	2	2	
2091	2/25	Bee A/K - Me	2	2	
2092	2/25	BU Tel - NY	1	1	
2093	2/25	BU Tel - JP	2	2	
2094	2/25	BU A/K - Me	1	1	
2095	2/9	BU (clab) det - Leg Attor	2	2	b1,2
2095	2/11	Legat Atlanta - BU	2	1	b1 - Page 1 and fig. 2 2 copies of fig. 2
NR	2/19	WFO A/K - ^{HHH} BU	7	7	A/K 091 b7d
NR	2/19	DL tel - BU	4	4	
NR	2/20	BU det ^{to me} - Ranken	5	5	
NR	2/19	DL tel - BU	10	10	

File No: 105-82553 Re: LEE HARVEY OSWALD

Date: 8/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
2458	3/11/69	Bur let ^{encls.} → DL	2	2	
2459	3/11	Bur let ^{encls.} → Lonkin	2	2	
2460	3/12	Bur let ^{encls.} → DL	2	2	
2461	3/12	Bur tel → Sgt M.L.	3	3	
2462	2/28	Rpt of SA J.M. Kennedy at SA	33	33	WCD #476
2463	3/11	Rpt of SA J.F. Moussey at WFO	38	23	WCD # 631 - Request marked confidential, b7C b-1 p 1+2, 5, 6, 7
2464	2/27	^{memo} Beonegan → Sullivan	2	0	b1+2 } is this over classified?
2464	2/26	Bur let ^{encls.} → NY	4	0	b1+2 at b-1 } is this over classified? encls referral CIA
2465	3/5	DL A/S ^{encls.} → BU	2	2	also p. 2 changed?
2465	3/3	BU A/S → HO	1	1	

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File No: 105-82555Re: OSWALDDate: 8-77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
4100	6/12/64	NY Tel. To Bus.	1	1	NONE
4101	6-16	Butel TO NO	3	3	"
4102	6-15	WFO airtel TO Bus.	2	2	"
4103	"	Moore memo TO Sullivan	1	1	"
4104	6/12	NY airtel TO Bus	1	1	"
4105	6/9	SF airtel TO Bus.	6	6	" b12
4106	6-8	Ottawa Legat airtel TO Bus	5	5	B-1 b7d referral
also 4106	6-16	Hooover let. TO Rankin	2	2	B-1 on p 2
4107	6-10	DL airtel TO Bus	3	3	NONE
also 4107	6-16	Hooover let TO Rankin	2	2	"
4108	6-10	Mex. Legat airtel TO Bus	5	5	B-7-D P.1 source symbol
✓ 4109	6-11	mm airtel TO Bus.	6	6	B-1 pgs 1-2 referral CIA

b7c

700:204: 4708 → 4734

Inventory Worksheet
FD-503 (2-18-77)

TABLE NO. 171

b7c

File No. 105-82555

Re: OSWALD

Date: 8/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
unrecorded	8/1/64	MEMO: Brennan → Sullivan	2	3	
unrecorded	8/12/64	AIRTEL: BA → DL	1	1	
unrecorded	8/21/64	MEMO: BONN → BU	2	0	Refer ARMY
4717	8/19/64	U.S. EMBASSY MOSCOW → BA	11	0	* REFER TO DC 1-5 (B-1) CLASSIFIED CONFIDENTIAL ACORN
4718	8/12/64	MEMO: BRANBON → Sullivan	2	2	by memo (B-1) SOURCE TO: [REDACTED] ACORN ← b7d
4719	8/24/64	AIRTEL: DL → BU	4	4	
unrecorded	8/25/64	MEMO: STC → BA	2	2	
4720	8/24/64	AIRTEL: WFO → BA	2	2	
4720	8/24/64	MEMO: JSM → J. L.R.	5	5	
4721	8/31/64	AIRTEL: BA → DL	1	1	
4722	8/24/64	S.A. Rpt. of J.W. KEMMY	16	16	* REFER TO DC 1-5 p. 1-14 center pg. BA → (B-D) INARRED confidential b1
4723	9/1/64	MEMO: JSM → J.L.R.	2	2	

593

9/3 - SECTION DOES NOT APPEAR
TO HAVE COME TO DECU

52725

File No: 105-92555

Re: LARRY HARVEY OSWALD

Date: 8/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
5016	9/24/64	MM MEMO → BU	11	7	p. 2-6: REPERO
5017	9/29/64	DL AIRTEL → BU	2	2	none
5018	9/24/64	H ↔ RANKIN	5	5	none
5019	9/25/64	WFO AIRTEL → BU	3	3	none
5020	9/22/64	SF AIRTEL → BU	13	3	none
5021	9/23/64	NDL TELE → BU, NK	3	3	none
5022	9/24/64	NK TELE → BU, DV	2	2	P1-7d
5023	9/29/64	WFO AIRTEL → BU	2	2	none
5024	9/28/64	LEGAT OTTAWA → BU	2	0	P1, 2-7c -7D b1 To DECU *
5025	9/29/64	ACKNOWLEDGE → BU	1	1	b1 none
5026	9/25/64	LEGAT OTTAWA → BU	5	5	b7d ARCHIVES + To DECU CHECK
5027	9/15/64	WFO AIRTEL → BU	2	2	none b1

996

Inventory Worksheet
FD-503 (2-18-77)

The No: 105-12555

Re: Oswald

Date: 9/88
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
	3/9	Bu let DOT	1	1	
	3/9	" " M. Johnson	1	1	
	3/9	" " NASA	2	2	
	3/9	" " Dept. of St	1	1	
5565	3/9	Legal Mem all Bu	2	0	(2D) name of source of info (7D) ID of [redacted] (b)(1) [redacted]
5565	3/9	LHM	3	0	(b)(1)? DeRU + Referral CIA + ✓ DeRU } CIA
	3/9	DL TP Bu	2	2	
5566	3/10	Legal Mem TP Bu	2	0	Referral CIA + DeRU + ✓ DeRU CIA
	3/10	DID Memo	1	1	b1 ✓ DeRU
5567	3/10	Bu TP MM	4	0	Referral CIA + DeRU + ✓ DeRU CIA
5568	3/10	MM all Bu	1	1	(7D) ID of confidential source b1
5568	3/10	LHM	3	3	b1

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CA 78-02449
EXHIBIT 21

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : W.C. SULLIVAN

FROM : W.A. BRANIGAN

SUBJECT: LEE HARVEY OSWALD
INTERNAL SECURITY - RUSSIA

DATE: 1-16-64

1 - Belmont
1 - Rosen
1 - Sullivan
1 - Malley
1 - Branigan
1 - Turner

Tolson _____
Belmont _____
Mohr _____
Casper _____
Callahan _____
Conrad _____
DeLoach _____
Evans _____
Gale _____
Rosen _____
Sullivan _____
Tavel _____
Trotter _____
Tele. Room _____
Holmes _____
Gandy _____

The following observations and recommendations are submitted for your consideration in connection with the proposal of the President's Commission to furnish all reports in the Ruby and Oswald cases to the prosecution and defense attorneys for the Ruby murder trial in Dallas:

1. We believe that the FBI has done a good job of investigation in this matter both before and after the assassination. We have nothing to hide and if all of the facts were to be made public and reviewed by the public, it is felt that the Bureau would not be criticized by reasonable people and legitimate organizations. However, in this instance, we are caught in the crosscurrents between the left and the right and each is trying to make a big conspiracy out of the assassination. They as well as others who have political or personal axes to grind will seize upon every opportunity to criticize the investigation as illustrated by some of the publicity since the assassination.

2. The issue in the murder trial is very narrow - whether Ruby was sane - and unless the attorneys intend to make a spectacle of it, the contents of our reports should not be disclosed. However, there is the definite danger that attempts will be made to persuade the jury that Ruby's action was justified because subject was directed by the Russians or the Cubans. Parts of our reports may be lifted out of context and by omission or innuendo the impression left that there was in fact such a conspiracy and that our investigation which failed to uncover it was incomplete.

The manner in which the reports were written add to this danger. The allegations were reported as received and then run out. The results of investigation may be hundreds of pages from the raw allegation and spread among several Dallas reports or those of other field offices. Time and the volume of information did not permit reporting the results of investigation along with the allegation.

105-82555
EIT:cgw
(9)

1 - 62-109090 (President's Commission)
1 - 44-24016 (Ruby)

See memo 1-20-64 forwarded to Tolson...

105-82555-1494

22 JAN 21 1964

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UNRECORDED COPY FILED IN

Memo for Mr. Sullivan
Re: LEE HARVEY OSWALD
105-82555

RECOMMENDATION

It is recommended that the above facts be pointed out to the Commission; that we suggest that there be stringent conditions against publicizing our reports if they are given to the attorneys; and that we tell the Commission that we will set the record straight in any instance where only part of the facts are lifted from our reports and publicized.

3. Before disseminating our raw reports to the Commission we were careful to classify only those which included classified information from another agency or where it was necessary to protect a Bureau source. In some instances only a small portion of the report was of this nature but in accordance with classification rules, the whole report was classified.

RECOMMENDATION

It is recommended that we inform the Commission concerning the specific portions of the classified reports which cannot be declassified and which should, therefore, not be furnished to the attorneys in the Ruby prosecution.

4. There is a danger that the Bureau will be criticized for reporting rumor, gossip or other information which might be embarrassing to various individuals. Because of the nature of this case, the field was instructed to report everything. The reports, therefore, contain every allegation about Oswald, his acquaintances and associates; critical statements made by various individuals about President Kennedy and his family; allegations by mental cases; other persons trying to be helpful, et cetera. To assist in evaluating the information, we included in the reports data from our files

Memo for Mr. Sullivan
Re: LEE HARVEY OSWALD
105-82555

regarding many of the persons who furnished information particularly those who had a history of mental instability. We also included in the reports such things as the report of the autopsy of President Kennedy which the family did not want publicized; a statement of a captain of police in Dallas that he could not rely upon what General Walker said, et cetera. Some gossip could be regarded as libelous.

RECOMMENDATION

It is recommended that we specifically point out to the Commission that the reports contain information of this kind which in some instances could cause embarrassment to some citizens and in others could be considered by the persons named as unwarranted publication.

5. There is a danger that demands may be made upon the Bureau to identify our confidential sources of information. In these reports wherever possible we attributed the information to the original sources but we did use T symbols to cover such sources as

people who requested their identities concealed and our own confidential informants who for the most part were utilized to characterize persons or organizations mentioned in the reports.

RECOMMENDATION

Although we can answer inquiries concerning Western Union or bank sources by advising that a subpoena should be issued to obtain the information, it is recommended that we point out to the Commission that we cannot disclose the other sources without compromising our informants, damaging our relations with other agencies or breaching confidences, all of which would be detrimental to our future investigative operations.

It is believed that the above recommended action will serve to alert the Commission as to the dangers of releasing our reports and put us in a better position in the event such release later results in criticism of the Bureau.

370

VIP A

Date: 2-11-64

To: Director, FBI

~~SECRET~~

(Bufile : 105-82555)

Attention : _____

From: Legal Attache, Ottawa

(163-364)

412878

Title LEE HARVEY OSWALD	Character IS - R Reference Mycab 1-28-64.
----------------------------	--

Remarks:

7/12/77 md
 Classified by 2040
 Exempt from GDS Category 1
 Date of Declassification Indefinite

all paragraphs secret unless otherwise marked.

COPY AND SPECIMENS
RETAINED IN LAB.



Dissemination

- May be made as received
- May be made as indicated by stamp on enclosure

Following offices would be interested in receiving copies of enclosures:

Dallas; New Orleans; Detroit

Status with this office:

- RUC
- Pending
- 5 - Bureau (1 cc - Dallas; New Orleans; Detroit) (Enc. 4)
- 1 - Ottawa

RETTAR BUB

①
JHC:
(6)

Handwritten notes and signatures

Do not write in space below

2095

REC 27

FEB 14 1964

Handwritten signatures and initials

EXP. PROC.
35-FEB-14-1964

UNITED STATES GOVERNMENT

Memorandum

REL 50
C 78-0249
Lyon
Baker
WBF 23

- 1 - Belmont
- 1 - Rosen
- 1 - Sullivan

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

TO : W. C. Sullivan *vies*

DATE: August 12, 1964

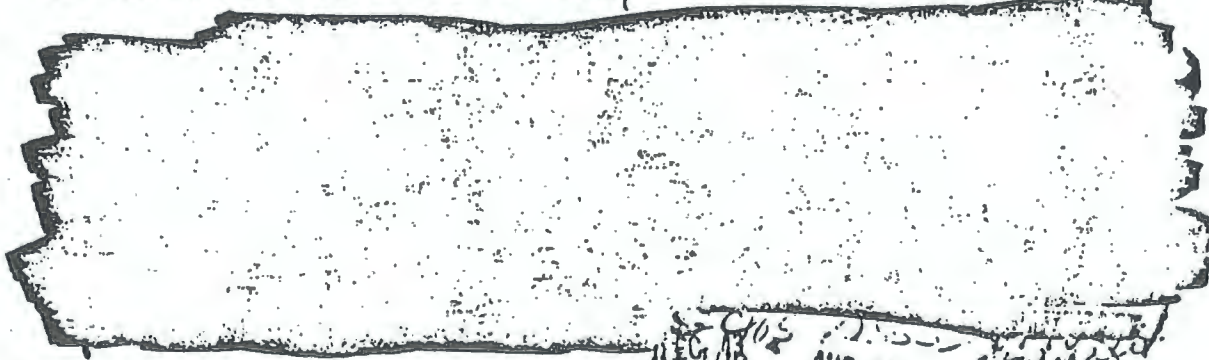
FROM : W. A. Branigan

- 1 - Malley
- 1 - Liaison
- 1 - Branigan
- 1 - Stokes

SUBJECT: LEE HARVEY OSWALD
INTERNAL SECURITY - RUSSIA - CUBA

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
EXCEPT WHERE SHOWN
OTHERWISE

CONFIDENTIAL
T. J. R.



105-82555

JCS:pah
(8)

~~CONFIDENTIAL~~
AIC-1 to DL 8/20/64
with cc of insub...

CONTINUED—OVER
CONFIDENTIAL

Classified by 2040
Exempt from GDS, Category 1
Date of Declassification Indefinite 9/26/77

69 EF : 1964-11-17/18

Memorandum to Mr. Sullivan
Re: LEE HARVEY OSWALD
105-82555

CONFIDENTIAL

RECOMMENDATIONS:

(1) That liaison obtain from the State Department its official report on this incident.

(2) That State be asked if they intend to disseminate to Central Intelligence Agency and to the President's Commission. If not, State should be informed that Bureau will find it necessary to make dissemination of the information in our possession.

JES
Done

js

Q

8/13/64
A.E. Jessup, State, requested to furnish info. C-112
8/17/64
Jessup furnished info from C.I.A. to President's Commission
It has been furnished to the Commission
It may still go to C.I.A.
C-112
attached.
al

CONFIDENTIAL

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FBI

Date: September 25, 1964

Transmit the following in _____

(Type in plain text or code)

AIRTEL

VIA COURIER

(Priority or Method of Mailing)

TO: Director, FBI (105-82555) Attention: Criminal Section

FROM: Legat, Ottawa (163-364) (P)

SUBJECT: LEE HARVEY OSWALD, aka
IS - R - CUBA

Re Ottawa airtel dated September 24, 1964.

Enclosed are original and five copies of letterhead memorandum setting out results of interviews of COLIN DAVIES and KENNETH G. ARMSTRONG

ARMSTRONG's statement indicates that SIMILAS knowingly deceived ARMSTRONG into buying the story by promising him pictures which he knew to be non-existent. The paragraph on page 13, center column, of the July issue of LIBERTY Magazine wherein he states a picture he took showed two figures beside the gun barrel, etc., was actually the main point of interest of this story. There is doubt that such a picture ever existed or exists now. If SIMILAS had taken the picture showing the assassin or assassins, it would have been exclusive and every medium would have been after it. According to COLIN DAVIES, the reporter, it would have been "The Million-Dollar Picture." No news editor would miss the opportunity of a scoop of this nature. SIMILAS told ARMSTRONG he had mailed this photograph, along with others, to the LIBERTY Magazine fully three months after he had been paid for the pictures lost by the Toronto Telegram and which supposedly contained this picture.

SIMILAS' story both DAVIES and ARMSTRONG, contains too many inconsistencies and "outright lies" to be taken seriously. He is an opportunist who saw a chance to cash in on the fact that he had witnessed the assassination and in order to do so, he had to make his story as convincing as possible, and that it is unfortunate that by a coincidence the negatives which would prove the lie have been lost.

6 - Bureau (Encs 6)
(2 - Dallas Liaison direct)

1 - Ottawa

MLI:MEG

Approved: [Signature] Special Agent in Charge

Sent _____ M Per _____

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Extra copies of this airtel are furnished for
the Dallas office (100-10461).

INNES



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

WASHINGTON 25, D. C.

September 25, 1964

LEE HARVEY OSWALD

[REDACTED]
COLIN DAVIES, reporter and
photographer of the Toronto Telegram. DAVIES advised he was the
reporter who interviewed NORMAN MITCHEL SIMILAS on the night of
November 23, 1963, and subsequently examined the negatives in
SIMILAS' possession. DAVIES stated SIMILAS was very excited at
the time of the interview. While viewing the negatives SIMILAS
was said to have pointed out the window and asked DAVIES if he
didn't think there were two people there. SIMILAS drew his
attention to the article written by a Dallas reporter in which
two people were mentioned as being in the window. DAVIES said
he felt it was the power of suggestion and that SIMILAS wanted
to see the two people in the negative so badly that he actually
believed he did. It was DAVIES' opinion that the negatives were
worthless from a news standpoint, but due to SIMILAS' state of
excitement he did not have the heart to disappoint him. DAVIES
decided to take the negatives and let the Photo Editor decide
what should be done. During the next day or so, the negatives
became lost and the Telegram, feeling responsible, sent SIMILAS
a check to pay for them. DAVIES did not know the amount but he
later met SIMILAS who told him he had received \$300 for his
negatives. (Actually he received \$50.00).

DAVIES was questioned as to his impression of SIMILAS
and his story. He said he had no doubt that SIMILAS had witnessed
the assassination but "he was sure going to get a lot of mileage
out of the story." There appears to be a complete reversal of
the roles played by SIMILAS and DAVIES, depending on whose story
is told.

On September 21, 1964, KENNETH G. ARMSTRONG was
interviewed. The following statement was obtained from him:

"Sometime in about February, 1964, while I was editor
of Liberty Magazine, I attended a press reception at Yorkdale
Plaza. I met JOHN VIRGIN, whom I knew as a Public Relations
Consultant and writer. During the luncheon he mentioned that

COPIES DESTROYED

21 MAR 13 1973

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he knew a Toronto man who had witnessed the assassination of President Kennedy and would I be interested in the story.

"Following this discussion, I subsequently contacted NORMAN SIMILAS and met him at the Park Plaza Hotel. On our first meeting we discussed his visit to Dallas and the events leading up to the assassination. This discussion probably lasted three hours and I got a lot of background.

"There were two subsequent meetings at which I got the remainder of the information that I wanted for my story.

"SIMILAS offered to supply me with pictures which were taken prior to and during the assassination. These were to be used to illustrate the story. SIMILAS supplied me with some pictures and he said he was having prints made of the other ones. It was my understanding that one of these pictures was the one in which two persons and the gun barrel could be seen, and these were to be forthcoming when developed. I phoned SIMILAS a day or so later and he said they had been mailed to me from a Post Office on Yonge St. I felt that they may have been misdirected and would be arriving at any time. After a week had gone by, ✓ Albert Plock, Art Director of Liberty, and I went through the entire amount of mail received during the previous weeks but we found nothing. I mention this because it was so important to the story to have that picture which contained the two faces at the window. We still held out hope that they might arrive in time for the second installment; however, they never did arrive.

"As I completed each portion of the manuscript I submitted it to SIMILAS for his approval or whatever changes he might suggest. I also went back and double checked on facts he had mentioned previously and his account was basically the same each time.

"The paragraph appearing in the center column on page 13 of the July issue of Liberty beginning, 'Will the investigation committee ...,' was discussed between SIMILAS and me, and originally this appeared in LIFE Magazine.

"It was obvious to me that SIMILAS must have done considerable research and read most of news and views published in order to form the opinion expressed in the next column regarding the assassin's perch.

"The second installment was completed and was set in galley-type, but was never published. Liberty Magazine ceased publishing after the July issue was released.

"I cannot think of anything else which would be of assistance to you except that before the story was used I showed HAROLD COOK, the publisher, SIMILAS' signature of approval which would eliminate the possibility of a misunderstanding between us.

(Signed) Kenneth G. Armstrong"

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 105-82555

SERIAL NO. 5565

PAGE NO. Entire Document

NO. OF PAGES 5

SECTION NO.

232

CIA

REFERRAL

File No: 44-2406

Re: Jack Ruby

Date: 8/77

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1678	6-25-64	Letter to Bureau DGRH - M - [redacted] - Bi - note	4	4	
1671	7-6-64	Hoover to Rankin	1	1	None
1672	6-15-64	Memorandum Lett	1	1	None
1673	6-3-64	Rankin to Hoover	2	2	None
1673	6-30-64	Quares to N.Y.	2	2	None
1674	6-26-64	Rankin to Hoover	1	1	None
1675	6-15-64	WFO Airtel w/HMM	9	9	None
		Transcription Fe. Spanish	2	2	MISSING COPY
		Dates Airtel	1	1	None
1676	7-7-64	Butler to Deans	1	1	None
1676	7-8-64	Rankin to Hoover	2	2	None
1677	7-7-64	Butler to Deans	1	1	None

MISSING COPY

EXHIBIT 26
72-1181-1079
CA 98-0079

CONFIDENTIAL Date: 6-25-64
To: Director, FBI (Bufile : 44-24016)
Attention : _____
(163-364)

gpk
From: Legal Attache, Ottawa

Title	Character
JACK L. RUBY, Aka.; LEE HARVEY OSWALD, Aka. (deceased) VICTIM	CIVIL RIGHTS
	Reference LHM dated 6-3-64, at Dallas, Texas.

[REDACTED]

Remarks:

[REDACTED]

*1 cc - Bureau (6/25/64)
1 cc - Dallas (6/25/64)
TS*

2046 cc 7/27/77

[REDACTED]

Following offices would be interested in receiving copies of enclosure:
Dallas (44-1632)

Status with this office:

RUC
 Pending
3 - Bureau (1 cc - Dallas)
(Enc. 13)
MLI:jhc
(4)
ENCLOSURE

Do not write in space below	
1670	REC 4
18 JUL 1964	



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

WASHINGTON 25, D. C.

June 25, 1964

JACK L. RUBY;
LEE HARVEY OSWALD -
VICTIM

[REDACTED]

[REDACTED]

(c)

COPIES DESTROYED

21 JAN - 2 1973

Classified by 5040
Exempt from GDS, Category 1
Date of Declassification Indefinite

11/17/77 ETG/TLC

382



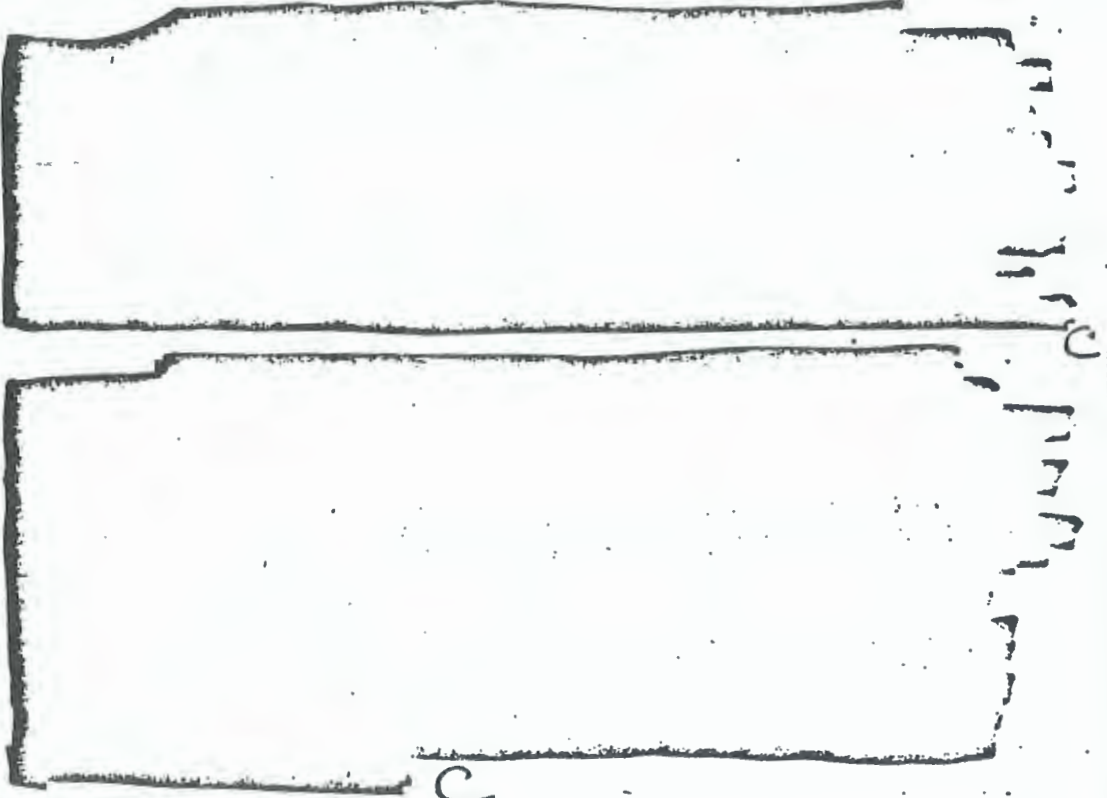
UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

WASHINGTON 25, D. C.

June 25, 1964

JACK L. RUBY;
LEE HARVEY OSWALD -
VICTIM



383

ASSASSINATION
OF PRESIDENT JOHN
F. KENNEDY
62-109060
INVENTORY
WORK SHEETS
(SECTIONS 1-70)

RELEASE

COPY 4

PART 1

384

File No: _____ Re: _____ Date: _____ (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1334	1/4/63	Citizen let and true copy	3	3	None
1334	1/4/63	Bulet reply	1	1	None
1335	1/2/63	Citizenlet	1	1	None
1335	12/5/63	Bulet reply	1	1	None
1336	11/29/63	Rosen to Belmont	1	1	None
1336	11/29/63	302 on Greer	3	3	None
1336	"	302 on Kellerman	4	4	None
1336	"	302 on Behn	2	2	None
1338	12/4/63	Brennan to Sullivan	1	1	None
1337	11/29/63	State Dept Document	2	0	Refer to state Dept.
1338	11/23/63	TT Fm Dallas	3	0	B-1 to Dept ✓
1339	11/27/63	TT Fm Dallas	2	2	B7E

C A 78-0249
EXHIBIT 29

Inventory Worksheet
FD-503 (2-18-77)

②

File No: 89-48 SECRET 3

Re: JFK ASSASSINATION

Date: 5/78
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
			Actual	Released	
278	11/23/63	TELETYPE FROM SUTHERLAND, ALICE	2	0	PREVIOUSLY PROCESSED
279	11/22/63	MEMO FROM AGENT TO SAC, DL	1	1	
280	11/23/63	TELETYPE FROM CG TO DIR, DL, SC, NY WFO	3	0	PREVIOUSLY PROCESSED
281	11/22/63	MEMO FROM AGENT TO SAC, DL	3	3	
282	11/23/63	TELETYPE FROM RH TO DIR & DL	2	0	PREVIOUSLY PROCESSED
283	11/22/63	MEMO FROM AGENT TO SAC, DL	2	2	ADD
284	11/24/63	LETTER FROM DL TO DIR	1	0	PREVIOUSLY PROCESSED
285	11/24/63	TELETYPE FROM DL TO DIR	6	0	PREVIOUSLY PROCESSED
286	11/23/63	MEMO FROM AGENT TO SAC, DL	4	0	b1 refer CIA
287	11/23/63	TELETYPE FROM DL TO DIR	3	0	PREVIOUSLY PROCESSED
287a	3/25/77	ROUTINE SLIP FROM HQ TO DL	1	1	
288	11/23/63	TELETYPE FROM RH TO DIR, DL, NY & AL	2	0	PREVIOUSLY PROCESSED

983

0-79 (Rev. 1-7-77)
TO: SAC

- Albany
- Albuquerque
- Alexandria
- Anchorage
- Atlanta
- Baltimore
- Birmingham
- Boston
- Buffalo
- Butte
- Charlotte
- Chicago
- Cincinnati
- Cleveland
- Columbia
- Dallas
- Denver
- Detroit
- El Paso
- Honolulu

- Houston
- Indianapolis
- Jackson
- Jacksonville
- Kansas City
- Knoxville
- Las Vegas
- Little Rock
- Los Angeles
- Louisville
- Memphis
- Miami
- Milwaukee
- Minneapolis
- Mobile
- Newark
- New Haven
- New Orleans
- New York City
- Norfolk

- Oklahoma City
- Omaha
- Philadelphia
- Phoenix
- Pittsburgh
- Portland
- Richmond
- Sacramento
- St. Louis
- Salt Lake City
- San Antonio
- San Diego
- San Francisco
- San Juan
- Savannah
- Seattle
- Springfield
- Tampa
- Washington Field
- Quantico

TO LEGAT:

- Bern
- Bonn
- Brasilia
- Buenos Aires
- Caracas
- Hong Kong
- London
- Madrid
- Manila
- Mexico City
- Ottawa
- Paris
- Rome
- Tokyo

SAC, New Rochelle (MRA) ASAC, Rapid City ("Min")

RE: ASSASSINATION OF PRESIDENT JOHN F. KENNEDY. RE TELEPHONIC REQUEST OF MR. MALLEY. (Date)

1. Re report SA _____ dated _____ at _____.
2. Re Dallas (office) (teletype) airtel/letter dated 11/23/63 dealing with conversation of transcript.
3. Re enclosure to _____ airtel/letter dated _____ at _____.
4. Other _____.

The following changes in classification have been made in the above communication(s).

- a. Declassified
- b. Classified Top Secret, exemption category 2 by 3002, date 3/24/77, date of automatic declassification Indefinite
- c. Downgraded to _____, exemption _____
- d. Upgraded to _____, exemption _____ by _____, date _____, date of automatic declassification _____

89-43-287a

SEARCHED	INDEXED
SERIALIZED	FILED
MAR 28 1977	
FBI - DALLAS	

gca

Bufile 62-109060-1338
Urfile

FILING Division and Section

J.F.K.

ASSASSINATION

62-109060

Section 17

Release
Copy
1

THIS SERIAL HAS BEEN REFERRED TO
ANOTHER AGENCY AND IS IN A PENDING STATUS:

FILE NO. 62-109060

SERIAL NO. 1338

PAGE NO. ALL

NO. OF PAGES 3

SECTION NO.

17

CIA

REFERRAL

389

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

UNITED STATES GOVERNMENT

Memorandum

C.A-78-0249
EXHIBIT 31

TO : SAC, DALLAS (89-43)

DATE: 11/22/63

FROM : SA W. R. HEITMAN

SUBJECT: ASSASSINATION OF
PRESIDENT JOHN F. KENNEDY

[REDACTED]

ANDERSON advised SA ELDON RUDD is proceeding to Dallas in the Naval Attache plane, a C-47, ID # 50752. It is due to arrive at Love Field at approximately 2 AM, 11/23/63.

[REDACTED]

*Heitman meeting NAVY 50752 (plane)
from Mexico City
due in Love Field 2:47 AM
Heitman advised*

Clark Anderson

WRH:ej
(3)

*Lead
Heitman*

to meet plane

390

89-43-103

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 22 1963	
FBI - DALLAS	

Heitman

C.A. 78-0249
EXHIBIT 32



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D.C.

November 23, 1963

Honorable James J. Rowley
Chief, U. S. Secret Service
Washington, D. C. 20220

Dear Mr. Rowley:

There are enclosed the results of our inquiry into the assassination of President John F. Kennedy and background information relative to Lee Harvey Oswald.

Additional information with respect to this matter will be furnished to you when available.

Sincerely yours,

J. Edgar Hoover

Enclosure

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In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D. C.
November 23, 1963

ASSASSINATION OF PRESIDENT JOHN F. KENNEDY
DALLAS, TEXAS, NOVEMBER 22, 1963

President John F. Kennedy was shot and killed by an unknown assailant at approximately 12:30 p. m., November 22, 1963, in Dallas, Texas. Investigation was immediately instituted in an effort to identify and apprehend the person responsible for this assassination.

At approximately 2:00 p. m., information was received that a suspicious person had entered the Texas Theater which is located about six tenths of a mile from the four hundred block of East 10th Street in Dallas where J. D. Tippitt, a Dallas Police Department patrolman had been shot and killed about 1:13 p. m. Officers of the Dallas Police Department and FBI Agents converged on the theater and took into custody Lee Harvey Oswald who resisted arrest and attempted to fire a .38 caliber revolver which was taken from his person.

State complaints were filed on November 22, 1963, charging Oswald with the murder of President Kennedy and Patrolman Tippitt.

Investigation has established that Oswald was employed at the Texas School Book Depository which has been identified as the building from which the fatal shots were fired at the President. A fellow employee stated he took Oswald to work on the morning of November 22, 1963, at which time Oswald was carrying a package of sufficient length to contain a disassembled rifle and which Oswald said consisted of curtain rods. Oswald was observed on the fifth floor of the building in which he was employed at approximately 11:50 a. m., November 22, 1963. Oswald was again observed inside the building shortly after the shooting but could not be found thereafter. Another fellow employee stated shots were fired "right over his head" while this employee was watching the car occupied by President Kennedy passing in front of the building. A witness to the shooting stated that the shots were fired by

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Assassination of President John F. Kennedy

a white man from a window on the sixth floor of the building in which Oswald was employed. This witness later selected Oswald in a line-up as the person who resembled the individual he observed fire the rifle from the window. The witness could not make a positive identification. Mrs. Earlene Roberts, 1026 North Beckley Street in Dallas, stated Oswald, using the name of O. H. Lee, had lived at her residence since October 14, 1963, and at about 1:00 p. m., November 22, 1963, came to her residence, picked up a jacket and left hurriedly.

A 6.5 caliber Italian carbine rifle with a four-power scope was found on the sixth floor of the building in which Oswald was employed and from which the shots at the President were fired. Investigation by our Chicago Office has revealed that a weapon of this description and identical serial number was sold to one A. Hidell, Post Office Box 2915, Dallas, Texas, on March 28, 1963, for \$21.45. This Post Office Box at that time was rented by Mrs. Lee H. Oswald, believed to be the mother of suspect. Oswald, at the time of his arrest, had in his possession a Selective Service card in the name of Alex Hidell. The recovered rifle as well as the .38 caliber revolver taken from Oswald, were immediately brought to the FBI Laboratory for examination.

It was determined that a bullet found on one of the stretchers at the hospital following the admittance of President Kennedy had been fired from the rifle referred to above. Examination also identified two bullet fragments found in the Presidential car as having been fired from this same weapon. Other examinations in the FBI Laboratory are continuing.

A brown paper bag possibly used to carry the rifle was found near the window on the sixth floor of the building from which the shots were fired. A latent fingerprint developed on this bag by the FBI Identification Division was identified with the left index finger impression of Lee Harvey Oswald.

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2

Assassination of President John F. Kennedy

With respect to background information concerning Oswald, his birth date has been verified at New Orleans, Louisiana, as October 18, 1939. He attended high school at Fort Worth, Texas, and according to records of the Office of Naval Intelligence, enlisted in the United States Marine Corps at Dallas, Texas, on October 24, 1956, for a three-year term. He was released to inactive duty on September 11, 1959, but his military obligation continued until December 8, 1962.

According to information received from the State Department, he indicated to the American Embassy in Moscow on October 31, 1959, that he wished to renounce his American citizenship. He claimed at the time that he had been a radar operator in the Marine Corps and had told Soviet officials that if he were granted Soviet citizenship, he would make known information concerning the Marine Corps, which was in his possession. On this occasion he declared, "I am a Marxist." The United Press on November 15, 1959, reported that Soviet authorities had refused to grant Oswald Soviet citizenship, but would permit him to live in Russia as a resident alien.

Office of Naval Intelligence reported that Oswald had been undesirably discharged from the Marine Corps Reserve on August 17, 1960.

On January 30, 1961, Oswald corresponded with the then Secretary of the Navy John B. Connally, with respect to his undesirable discharge requesting that appropriate action be taken to change his status and indicating he intended to return to this country. This was followed by a letter dated March 22, 1962, directed to Assistant Director of Personnel, Brigadier General Tompkins, United States Marine Corps, at which time he made a similar complaint.

Information has likewise been received from the Office of Senator John G. Tower (Republican - Texas) that during 1961 Oswald had requested that Senator Tower intercede in his behalf with Soviet authorities, so that they would allow him to return to the United States.

According to information received from the State Department on May 17, 1962, Oswald and his wife, a Soviet citizen, had been granted exit permits to leave Russia, and the State Department had given approval for their travel to the United States accompanied by an infant child.

Assassination of President John F. Kennedy

Oswald was interviewed by Special Agents of this Bureau at Fort Worth, Texas, on June 26, 1962, at which time he was curt, sullen and arrogant. He declined to answer questions as to why he made the trip to Russia or his experiences while there. He indicated that he had been employed as a sheet metal worker in a television factory and admired the Russian form of Government. He claimed familiarity with the theories of Karl Marx, but denied being a member of the Communist Party or having renounced his United States citizenship. According to Oswald, the Soviets never attempted to obtain information from him nor did he make any deals with the Soviets in order to obtain permission to return to the United States. He disclaimed any affiliation with Soviet intelligence.

Upon reinterview on August 16, 1962, he acknowledged recently visiting the Soviet Embassy in Washington, D. C., but indicated his visit was solely to register his wife's current address as required by Soviet law. He again denied requesting revocation of his United States citizenship or allegiance to the Soviet Government.

According to information developed by this Bureau, Oswald was arrested on August 9, 1963, for disturbing the peace in New Orleans, Louisiana, as a result of distributing a pamphlet for an organization known as "Fair Play for Cuba." He pleaded guilty and elected to pay a fine of \$10.

Oswald was interviewed on August 10, 1962, at which time he indicated he was unemployed and had been in New Orleans for approximately four months. While there he read literature distributed by the Fair Play for Cuba Committee which he considered not to be communist dominated or controlled. He corresponded with the Committee at 799 Broadway, New York City, and paid a \$5.00 membership fee. He received a membership card in the New Orleans chapter dated June 6, 1963, signed A. J. Hidell.

The Fair Play for Cuba Committee is a pro-Castro organization founded during the Spring of 1960, whose function is to propagandize the Castro regime.

The Central Intelligence Agency advised that on October 1, 1963, an extremely sensitive source had reported that an individual identified himself as Lee Oswald, who contacted the Soviet Embassy in Mexico City

Assassination of President John F. Kennedy

Inquiring as to any messages Special Agents of this Bureau, who have conversed with Oswald in Dallas, Texas, have observed photographs of the individual referred to above and have listened to a recording of his voice. These Special Agents are of the opinion that the above-referred-to individual was not Lee Harvey Oswald.

A highly confidential source of this Bureau advised that an individual identifying himself as Oswald on November 18, 1963, was in contact with the Soviet Embassy in Washington, D. C., at which time he referred to a recent meeting with Comrade Keatin at the Soviet Embassy in Mexico City. This individual indicated that he originally intended to visit the Embassy in Havana, Cuba, where he would have had time to complete his business, but that he had been unable to do so. He furnished his address as Box 625, Dallas, Texas, and claimed to be the husband of Marina Nikolovna Oswald, a Soviet citizen and father of Audrey Marina Oswald, born October 20, 1963, at Dallas, Texas.

Oswald during previous interviews with FBI Agents claimed to have married his wife, Marina Nikolovna Oswald, nee Fruschkova, at Minsk, Russia, on April 20, 1961. He likewise claimed an American passport, number D992523, issued at New Orleans, Louisiana, on June 25, 1963, for proposed travel of three months to one year as a tourist to England, France, Germany, Holland, USSR, Finland, Italy, and Poland. He indicated an intention to depart from New Orleans during the latter part of 1963.

Additional information developed by this Bureau indicated one Lee Oswald during September, 1962, was a subscriber to "The Worker" an east coast communist newspaper.

CIA Withheld Details on Oswald's Call

By Ronald Kessler
Washington Post Staff Writer

In late September, 1963—eight weeks before the assassination of President Kennedy—Lee Harvey Oswald telephoned the Soviet embassy in Mexico City and tried to make a deal.

In exchange for unspecified information, he wanted a free trip to Russia.

This conversation was intercepted and recorded by the Central Intelligence Agency at the time. But it was not then turned over to the FBI, which has responsibility for investigating possible spies, and it was not later turned over to the Warren Commission during its investigation of the assassination.

The unanswered question is why not?

The existence of the CIA telephone intercept of Oswald's conversation in Mexico City and the contents of the still-secret transcript have been verified by The Washington Post. The Post has also verified that the CIA failed to turn over the complete

transcript to either the FBI or the Warren Commission.

Instead, the CIA gave the FBI in October, 1963, only a brief report saying Oswald had made contact with the Russians. It gave the Warren Commission a transcript of the taped conversation but for unexplained reasons failed to include in the transcript Oswald's offer of information and his suggestion that the Russians would want to pay his way to the Soviet Union.

The Post has also determined that the CIA, for unexplained reasons, told the Warren Commission that it learned of most of Oswald's activities in Mexico City only after the assassination. The fact is, however, that the CIA monitored and tape-recorded his conversation with both the Russian and Cuban embassies in Mexico City in the fall of 1963, before Kennedy's death.

It was the CIA's belief that the two embassies were heavily involved in the spy business and that, specifically, they were operational bases for intelligence activities directed at the United States.

So, with the full cooperation of the Mexican government, CIA wiretaps were installed on telephone lines going into both embassies.

The CIA was especially interested in U.S. citizens who made contact with the embassies.

Thus, when Oswald showed up in Mexico City in late September and telephoned the Russian embassy, his conversation was picked up from the wiretap. A transcript was made and circulated in the CIA offices in the American embassy in Mexico City.

The station chief at that time was the late Winston M. Scott, who personally reviewed all transcripts emanating from wiretaps on Soviet bloc installations.

The Oswald transcript, according to a CIA translator who worked with Scott, aroused a lot of interest.

"They usually picked up the transcripts the next day," he said. "This they wanted right away."

What that transcript contained is a matter of some dispute, and the CIA says it routinely destroyed the tape before the assassination. But some



LEE HARVEY OSWALD
... telephoned Soviet embassy

See OSWALD, A7, Col. 1

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Q.A. 78-0249
EXHIBIT 33

APR 10 1964
FBI - NEW YORK

CIA Withheld Details on Oswald Call

OSWALD. From A1

people who saw the transcript or heard the tape before the assassination recall that Oswald was trying to make a deal.

One of them is David A. Phillips, a former CIA officer, who now heads the Association of Retired Intelligence Officers and is a leading defender of CIA activities. Phillips was stationed in Mexico City at the time.

The transcript revealed, Phillips recalled, that Oswald told the Soviet embassy: "I have information you would be interested in, and I know you can pay my way" to Russia.

The stenographer who typed up the transcript and the translator who prepared it had similar recollections.

"He said he had some information to tell them," the typist said in an interview in Mexico. "His main concern was getting to one of the two countries [Russia or Cuba] and he wanted them to pay for it. He said he had to meet them."

The Warren Commission later concluded the Russians and Cubans were not much impressed by Oswald. This view is supported by Sylvia Duran, a Mexican citizen who worked in the Cuban embassy at the time of Oswald's visit. She talked to Oswald on Sept. 27, 1963, and recalls the meeting in some detail.

In a joint interview in Mexico City with this reporter and Post special correspondent Marjorie Simons, Duran said Oswald told her that he wanted to travel to Cuba and Russia and displayed documents to show he was a "friend" of the Cuban revolution. Among other things, he claimed to be a member of the American Communist Party.

Duran said she informed Oswald that in order to travel to Russia he would have to obtain permission from the Soviets. Oswald went off and returned later in the day to inform Duran that he had obtained the necessary permission. Duran said she called the Soviet embassy and was told Oswald's application for a visa would take three to four months to process. Informed of this, Duran said,

Oswald "got really angry and red. He was gesticulating." Duran said she had to call for help from the Cuban consul who got into a shouting match with Oswald and told him to get out. Duran said she never saw him again.

However, Duran's story covered only the first day of Oswald's five-day stay in Mexico City. Oswald later referred in a letter to "meetings" he had in the Soviet Embassy.

How interested the CIA was in Oswald's dealings with the two embassies is uncertain.

The translator and typist who handled the transcript of the intercepted conversation recalled that the level of interest was high. But the CIA's own actions lead to a different conclusion.

The agency waited until Oct. 10, 1963, to notify the FBI of Oswald's activities. And its teletyped report made no mention of Oswald's offer of information in exchange for a free trip to Russia or of his attempts to travel to Cuba and Russia. "On October 1, 1963," the teletype message said, "a reliable and sensitive source in Mexico reported that an American male, who identified himself as Lee Oswald, contacted the Soviet Embassy in Mexico City inquiring whether the embassy had received any news concerning a telegram which had been sent to Washington."

That was strictly a routine handling of the matter, and similar to the standard reports made to the FBI at that time on other contacts with the communists by American citizens in Mexico.

Even after Kennedy's assassination, the CIA failed to turn over to the Warren Commission the full transcript of the telephone intercept it had made in Mexico City. Oswald's offer of information to the Russians in exchange for passage was omitted from the transcript, and the CIA claimed it did not know of most of Oswald's activities in Mexico City until after the assassination.

The significance of the CIA actions is difficult to assess. The FBI in the fall of 1963 was already showing in-

termittent interest in Oswald and might or might not have intensified that interest if it had been told of Oswald's conversations.

Whether the new information would have affected the Warren Commission's deliberations is also an open question. The commission investigated the possibility of a foreign conspiracy and concluded there was no evidence to show Oswald acted on behalf of a foreign power.

Nevertheless, there is yet no explanation for the CIA's handling of Oswald's conversations. The CIA today refuses to comment, saying it would not be appropriate in the light of an impending investigation by the House Select Committee on Assassinations.

When asked if they could explain the agency's actions, some CIA officers stationed at the time in Mexico City said the CIA may have had a relationship with Oswald that it sought to conceal. The CIA has denied this.

David W. Belin, who was an assistant counsel to the Warren Commission and later executive director of the Rockefeller commission's probe of the CIA, said that if the Warren Commission had known of Oswald's conversations and other new information, it would have been less sure what the assassination was not part of a foreign conspiracy.

Sen. Richard S. Schweiker (R-Pa.), who led the Senate Intelligence Committee's probe of the assassination, said that investigation would have taken on an "entirely different direction and perspective" if the committee had been aware of Oswald's conversations.

In interviews with The Post, Belin, who documented the CIA plots against Castro in his capacity as executive director of the Rockefeller commission, revealed the CIA also did not tell the Warren Commission of a report from an alleged witness to a meeting in Mexico City between Oswald and Cuban intelligence agents.

At the time, Cuban agents coordinated their more important activities

with agents of the KGB, the Soviet intelligence service.

Belin called on the CIA to make full disclosure of its knowledge of Oswald and his contacts with the Cubans and Russians.

Belin, a staunch defender of the Warren Commission's conclusion that Oswald was the lone assassin who killed Kennedy, said he recognizes the CIA's concern about disclosing secret sources and intelligence techniques. But he said a greater national interest would be served by disclosing the truth.

A CIA spokesman specifically denied that the agency has a report of a meeting between Oswald and Cuban agents. The agency is aware of only one such specific allegation, and that was debunked," the spokesman said.

8/13

399

J8
203
(D106)

ITEM # DESCRIPTION TRANS REC'D REPORTED LEADS AND ACTION TAKEN OR TO BE TAKEN

Mexican bus list of passengers (Lab Spec. Q332)

yes

Page 1-4 of LHM report memo 17-11-63

Page 1-2 of LHM report memo 2-13-64

Page 17-21 of LHM report memo 3-2-64

Page 1-4 of LHM report memo AT + LHM of 2-27-64

①

② Pg 52 of 1-7-64

③

④

⑤

⑥

Manifest of Transporte Frontera Bus Co for Bus # 340, trip # 3, Mexico City to Nuevo Laredo, Mex., leaving 10-2-63, 1 pm arriving 6 am 10-3-63. Her name "Arnold" as occupying seat 4. Persons interviewed do not identify Arnold + no ticket # assigned; all persons reporting name listed as 363 obtained by interview.

Summary of investigation in file tel to Bureau 5-26-64.

Lab advised "Arnold" on manifest not written by Arnold.

1 page from May-1941 - Two work sheets

Q.A. 78-0249
EXHIBIT 34

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

V.

CLARENCE M. KELLEY, et. al.,

Defendants.
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: Civil Action No. 78-0249
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AFFIDAVIT

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

1. I received a copy of the Court's February 15 Opinion from my counsel on the afternoon of Friday, February 16, when I met him on my way home from addressing a university audience in Boston. I had only Saturday to prepare this affidavit so that it could be retyped and executed within the time permitted because of a prior commitment to address another audience and conduct seminars in a relatively inaccessible midwestern college for which I must leave on the morning of Tuesday, February 20. I must prepare my remarks and for the seminars. It is not possible for me to delay or cancel the obligation. I do not have many of these college appearances. Today's collegiate audiences have a preference for titillation from those known as conspiracy theorists, which I am not. However, these few appearances and occasional consultancies provide what income I have in addition to Social Security. I therefore will not have time to revise this affidavit after I draft it or as full an opportunity to inform the Court as I would prefer. I also will not be able to provide all the exhibits that, with time, I could retrieve from my files. Should the Court desire, I can provide amplification and added exhibits after. I am more than willing to do so.

2. I have read the Opinion, as I have read many other opinions, including recently that of the appeals court in Jordan v. Department of Justice. One does not have to be an eminence of the bench to understand the purposes and philosophy of the Freedom of Information Act (FOIA) with which I have had extensive personal experience. As the appeals court states in the Jordan case, the Act is a disclosure Act, not a nondisclosure Act. This Court's opinion is based on the opposite belief and

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philosophy. It misinterprets the purposes of the Act to be for withholding rather than maximum possible disclosure of public information.

3. It is my belief that a Court intending to be fair requires full and accurate information, not merely conclusory and self-serving statements. It is for this reason that I sought to provide as much information as I did in my affidavit of February 14 although as I indicated in that affidavit I was less well and less able than I had been because of illnesses that in themselves are a serious inhibition.

4. I have filed many information requests. In not a single case have I not obtained and made public information that had been denied, in plainer language officially suppressed, until after the case was in court. Whatever the official representations and explanations may be, this is the fact. In a number of other instances, significant information was withheld until the last minute before I would have filed a complaint. In other instances, when the Government prevailed at district court level, it opted to provide the withheld information rather than have the issue go before the court of appeals.

5. My files hold hundreds of pages of records originally classified "Top Secret." These when disclosed revealed no legitimate basis for any degree of classification, not even the lowest. In all cases unjustified claims to "National security" were made in an effort to withhold what was embarrassing to officials. In one such "Top Secret" record a former agency head justified perjury as right and proper.

6. In no case have I made any frivolous requests. This may not be apparent to those who are not subject experts. The courts are not subject experts. My instant request is not frivolous.

7. For the past decade and a half I have been in the position of one who could not practice Wordsworth's wisdom, of not being the first the new to try. The obligations of a writer in the nation of the First Amendment and of good citizenship have made this impossible. I attach an exhibit that does not represent my first such effort but is my first with the FBI and its Director. My purpose was to bring to light suppressed and significant information relating to the assassination of President Kennedy. (Exhibit 2, below) This is the subject of the information sought in the multi-part request at issue in this instant cause.

8. I regard the assassination of a President as the most subversive of

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crimes in a land like ours. It nullifies the system and structure of our society. It negates the electoral process. I do not approach this subject as and my work is not the pursuit of a real-life whodunit. Rather do I regard any official failures following a crime of this magnitude as a further jeopardy to the nation. Among the consequences is an invisible but omnipresent threat against any official, particularly a president, who must make what he regards as a decision that can be unpopular in some, particularly in powerful, quarters.

9. My concern is with the integrity and functioning of our institutions. I am not in quest of unseen and unknown assassins.

10. In this sense my work is little understood outside the agencies which have and withhold the public information I seek so that I may be able to make it public and add to it other information and knowledge I have. I regard this as the responsibility and function of an American writer.

11. My first book was the very first book on the Warren Commission. It is not a work of criticism of the FBI, as part of the FBI recognized. (See Exhibit 4 below) The major responsibility, it states at the outset, was that of the Presidential Commission, the Warren Commission. My belief and philosophy are reflected in the dedication about which even a few judges and legislators wrote me favorably:

To my wife, whose ancestors dreamed of man's freedom, fought the Revolution to establish it, and preserved it by fighting both for and against the Union; who is the living embodiment of their spirit and deep beliefs; and whose great labor made this book possible, with the full appreciation of the value of this inheritance which became mine when my parents emigrated to a land in which their son would be born free, this book is lovingly dedicated.

12. Real, meaningful freedom and an effort to enable the people to participate in self-government is one of the purposes of the Freedom of Information Act, which requires that the people be able to know what their Government does and is doing. In a significant way the Act enables the rectification of official error by the people as well as the exposure of official wrongdoing. Both are involved in my work and in this instant cause. Exposure can be cleansing and healing where it is not opposed.

13. My actual information request, rather than the flagrant distortion of it by the Government that was accepted by the Court, is not a frivolous request. Its purposes include obtaining and making public information relating to this most subversive of crimes; information that will establish official intent to continue

to withhold relevant information under the Orwellian pretense of disclosing all possible information, the FBI's representation of 1977 and 1978; and what is also Orwellian, manipulation of information, misinformation and disinformation to continue to control what can be known and believed and to continue to prevent exposure of official failures at the time of and subsequent to the great tragedy.

14. Prior to the over-advertised and falsely-represented complete disclosure of all FBI information relating to the assassination of President Kennedy and its official investigation (see Exhibits 5 and 8), there was advance and exclusive disclosure to others of a significant volume of the records subsequently released although there is no doubt that I am the senior requester and the one who made most information requests. When the still withheld records that are the subject of my actual request are made available, this will become clear. The gulling of the Court in this news management and political mind control operation also will become clear. I provide proofs below because I have some such proofs and because in the course of manipulating what could and would be known and believed it was necessary to make such exclusive advance disclosure.

15. Discrimination against me is not new in the FBI. Systematically over a period of years, stated in formerly secret records, the FBI decided not to comply with any of my requests under the Act. Usually this was to the accompaniment of its litany of fabricated libels. Approval was on the highest level. Records I can provide include the "OK H" initialed approval of the Director. In the words of SA Marion Williams, the FBI had to "stop" me. It plotted with SA Lyndal L. Shaneyfelt and spent public moneys in legal research for its step in pursuance of this effort to "stop" me with a phony libel action. Shaneyfelt was to file it and bog me down in court. The statute of limitations had run when I learned of these anti-American schemings. I then gave Department and FBI counsel a verbal waiver of the statute and followed with a written waiver to the since silent Shaneyfelt.

16. In this instant cause, when I was able to examine the first of the underlying records, it became apparent that the FBI was using massive disclosure as a means of obfuscating and of continuing to cover up its record, I believe its deficiencies in the investigation of the terrible crime. Systematic retrieval is impossible from 100,000 uncollated, unindexed pages. (The withholding of an existing index is addressed below.) In the earliest of the released records there was sufficient scandalous disclosure relating to the safely dead J. Edgar Hoover to capture and monopolize headlines and direct attention away from FBI

deficiencies and from those who survived Hoover. In addition, the FBI withheld many significant records which lie buried in its inaccessible field offices. On this subject the records of the Dallas Field Office, known as the Office of Origin, are of great significance. If they hold no "smoking gun," they hide a considerable deposit of the "family jewels."

17. All field office records copies of which were not in FBI Headquarters (FBIHQ) were automatically excluded from this so-called complete disclosure. As an example of what FBIHQ did not have I refer to what I included in my February 14 affidavit relating to the withholding of the reports on and copies of motion and still pictures of Charles Bronson, which include the actual assassination. (I included this in my prior affidavit for other purposes.)

18. As I have informed the Court, in September 1976, in C.A. 75-1996, I provided an incomplete list of two dozen ignored information requests I had made of the FBI since January 1, 1968. After Department counsel, the Department and the FBI became aware of this unprecedented noncompliance by this means - the filing of the requests and appeals were, of course, earlier means - no compliance followed. Subsequent to the January 16, 1978, Order in my C.A. 77-2155 (through which I obtained copies of the underlying records), the Department promised full compliance. Virtually total noncompliance with my actual requests continues to this very day. The FBI was so determined not to comply with my information requests that when the Department's appeals office sought to obtain copies of them from the FBI following the hearing in C.A. 77-2155, the FBI could not provide them. At least this is what I was told by the appeals office, to which I then provided a copy of the incomplete list I had been able to prepare for C.A. 75-1996. This list is attached as Exhibit 1. Months have passed. I still await action on the renewed appeals. I recall receiving only a single photograph of all the information sought in these requests. That photograph is only part of that 1968 request. The apparent inspiration for this limited and belated compliance years after that photograph was provided to a much later requester was the the FBI's knowledge that the House Select Committee on Assassinations, having obtained it from the FBI, was about to use it.

19. There have been inappropriate and improper sneering references by Department counsel to this Court about my alleged imagining of noncompliance and discrimination against me but this is the actuality, as many illustrations in addition to Exhibit 1 and what follows below leave beyond any doubt. The reason

is that I deal with fact and proofs and do not idly dream and expound easily rebutted conspiracy theories. The FBI much prefers, when it can no longer continue to withhold, to have misuse by these theorists. This defames all critics of the FBI and takes the edge off any disclosed evidence. It makes disclosure safe because it denies meaning to the disclosure, often gives the wrong meaning to it, and persuades those with a major influence on public opinion, ranging from the major media to important officials, that criticism of the FBI is unjustified and all critics are "nuts."

20. A common means of avoiding compliance is to misrepresent and rewrite my information requests. This instant cause is no exception. Any reading of my actual request and Complaint leaves no doubt that my request is not limited to the worksheets. I have repeatedly informed the Court of this. That the Court is not without recognition and understanding of this is displayed in the first sentence of the Opinion, "... seeks disclosure of worksheets and records relating to the processing, review and release of the material ... made public..." (emphasis added) No single sheet of these "records relating to the processing, review and release" had been provided to me. However, the Order makes no reference to that flagrant noncompliance with my actual request. (As I state below, the Opinion is in other factual error.)

21. Exhibit 2, one of the underlying records, is the earliest FBI record I have of what became FBI boilerplate in misrepresenting my actual requests. It reflects the FBI's deliberate distorting of my request to suit FBI ulterior purposes and as a figleaf for the nakedness of its ordained noncompliance. This particular copy is one of those to which I refer in my February 14 affidavit as provided by Paul Hoch, whose initials appear on it. The initials "DSL" are those of David S. Lifton, who provided the copy to Hoch. In turn, Lifton obtained the copy from others. This alone reflects wide distribution of the FBI's defamations. My purpose in setting forth this history is to underscore the FBI's misuse of FOIA and deliberate violation of the Privacy Act (PA) in its long-standing and entirely improper police-state efforts against me personally, not only my information requests. Exhibit 2 includes my May 23, 1966, letter to the Director of the FBI in which I asked that certain withheld information be made public and the FBI's immediate contortions, distortions and libels. I emphasize libels because prior to this disclosure to the press and general public and wide distribution among those

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with whom I do not agree, some of whom do not love me, I had corrected the factual errors of the FBI's fabrications and had asked the FBI to enable me to make correction under PA. When I received no response at all, my counsel wrote the Director of the FBI. When he received no answer, my counsel wrote the Attorney General in an effort to prevent the misuse of these disclosures to defame me and my work. There was no response from the Attorney General. Exhibit 2 includes the libel that I have an unspecified "subversive background."

22. Although I was denied my rights under PA by the FBI, its Director and the Attorney General, I had nonetheless invoked these rights and provided a documented correction. I believe that because these and the relevant internal records are among the "records relating" to the processing and releases, they should not continue to be withheld. I provide a partial explanation.

23. One baseless fabrication I corrected in writing is that my wife and I annually celebrated the "Russian Revolution." This was convoluted from an unselfish religious event. Years ago the rabbi of the Jewish Welfare Board who ministered to Washington area military personnel brought them and their families to the farm my wife and I then had where they relaxed after observance of the Jewish high holidays. We arranged what were delights to the children, for them to observe the incubation and hatching of egos, for them to gather eggs as laid by the hens and for them to fondle and play with other tame animals. I can provide photographs taken by this rabbi. If a Himmler might be proud of this FBI venture into Himmlerism, I am not proud of a Government that, knowing better, practiced such Nazi and KGB abuses.

24. Another such libel is that I conspired with a notorious anti-Semite, J. B. Stoner, to besmirch the saintly reputation of the FBI and to do this demanded to be interviewed by a Department lawyer. The actuality is that in 1969, at the request of the Criminal Division, I went to the Department's then Internal Security Division to provide other information requested of me. I then also gave the Department leads on what only much later became known as the FBI's less than saintly Cointelpro operations. In this particular case I provided accurate information about efforts by FBI Cointelpro operatives to provoke extreme racial violence.

25. Still another widely distributed FBI distortion based on which it claims I am subversive is a rectified error by the State Department. Yielding to

pre-McCarthy ultra tremist and racist political pressures, it engaged in a pogrom. It fired a number of Jewish employees under the "McCarran Rider," since held to be unconstitutional. I was given no charges. No charges were made or made public. There was no hearing. When I fought back, I was vindicated. The action was rescinded and the Department issued a public apology. I attach as Exhibit 3 the unsolicited letter of commendation from my eminent counsel. (One was later a Supreme Court Justice. Another was a federal judge who had known me earlier. I assisted him when he was head of the Department's Anti-Trust Division and provided him with information he did not receive from the FBI, about Nazi cartels. A third had been head of a federal agency.) There is no basis for any FBI attribution of "subversive" to me. I believe these and other similar acts by the FBI are subversive of every American concept.

26. My informing the Department of the FBI's Cointelproing when that evil was entirely unknown did not endear me to the FBI. Before then, to my knowledge and from copies I have, it had made extremely widespread distribution of these and other libelous distortions and fabrications throughout the Government. No Attorney General or Deputy was overlooked when I made any information request. The President himself was provided with these libels when my earliest published work attracted much attention, thanks in part to the FBI's efforts to Cointelpro me. This will become apparent in connection with Exhibit 4, another underlying record that follows.

27. This partial explanation is provided because it is part of the proof of the existence and withholding of the records relating to the processing and release of the underlying records. There can be no doubt because at the least there are copies of my letters and those of my counsel as well as his telegram referred to in my February 14 affidavit. Disclosure and/or nondisclosure and processing followed.

28. The wasting of a small fortune in time and money and the 1974 amending of the investigatory files exemption of the Act are a direct consequence of what began with the FBI's deliberate misrepresentation of the information request in my May 23, 1966, letter, Exhibit 2. I illustrate this with the request that the "spectrographic analysis" rather than the meaningless paraphrase of FBI testimony before the Warren Commission be made public. I refer to this testimony and I state that the agent "did not offer into evidence the spectrographic analysis ..." Rather than stating that he did not testify, I cite his testimony.

29. As what became a direct challenge to the FBI worked its way upward through the FBI's higher echelons, this was deliberately distorted. The first of many examples is on the first page of the Rosen to DeLoach memo that is part of Exhibit 2. Rosen represents falsely that I stated "that ... in testimony evidence was not introduced as to the spectrographic analysis ..." (emphasis added) I was well aware of the meaningless "evidence" of this FBI testimony. It is no more than that lead is "similar" to lead. I asked for and to this day, despite the long subsequent history of that request and litigation, have not received the stated results of the spectrographic examination.

30. I do not believe it is a digression to inform the Court further on this because it bears on motive for withholding and misrepresenting. Among the underlying records I have found several that relate to similar spectrographic examination of bullets from the killing of the Dallas policeman, J. D. Tippit. In the JFK case the FBI never departs from the meaningless description of the lead-compound bullet core material as "similar." This means absolutely nothing. Lead compounds are quite common. Examples range from printer's type metal to automobile wheel weights. These are "similar" to each other and to lead in bullets and many other objects. However, in the Tippit case the FBI's records include specifically stated evaluations, significant information never provided in the JFK case. The FBI abandons the meaninglessness of "similar" with regard to samples tested. It refers to both "quantitative" and "qualitative" comparisons and results.

31. There is no faithful representation of my actual request in this June 6, 1966, record from Exhibit 2. The FBI's highest echelons refused to respond, for which they obtained the "I concur, H" of the then Director.

32. On page 3 under "details" there is what is relevant to Paragraph 30 above, the knowing evasion of "similar in composition." This amounts to a confession of dissimilarity in the samples because of the capability of the scientific tests and because of the conclusions that can be reached and are stated in the Tippit spectrographic examinations.

33. In ascribing motive to the FBI's withholding from me I have referred to its "operations" against me. My most recent appeal of withholdings relating to "operations" is based on records I believe I would not have obtained if those processing the records understood their meaning. In my February 14 affidavit I refer to the FBI practice of assigning personnel without subject-matter expertise

to FOIA processing to assure automatic withholding. In this instance FBI ignorance had the opposite effect.

34. This recent appeal stems from records of the San Francisco Field Office. Although a few pages only were provided, disclosure was delayed for a year after they were located. These records leave it without possibility of doubt that an FBI informant attempted to do me harm when I was making public appearances with my first two books, at the end of 1966. Using some of the misinformation referred to above, he tried to "redbait" me on the "talk show" with the largest audience on the west coast. I refused to abide by the moderator's principled position that all of this was irrelevant and insisted on addressing it. The result was a dramatic confrontation in which it evolved that this caller-in was too young to have personal knowledge of the matters in question. His unsuccessful baiting effort led to much attention to my books, influenced their sale favorably and resulted in a standing-room-only audience at my only platform appearance on that trip. This was not the FBI's intent but I am not ungrateful for the results.

35. A similar FBI exploit on the east coast is reported in another of the underlying records in this instant cause that was included in the mailing from Hoch. It is attached as Exhibit 4. This second backfiring of FBI efforts to "Cointelpro" me is first in time, of July 1966. This record also provides an insight into FBI indirection and into how "impartial" some of the talk shows were and are.

36. Metromedia's WMEN-TV in New York City, then the largest independent TV station in the country, invited me to appeal for a 20-minute segment on what was represented as a book-and-author interview. I did not know of the trap reflected in Exhibit 4, of asking the FBI to appear and do me harm. However, I have a very clear recollection of the entire affair, particularly of what was conspicuous in that kind of audience, four seemingly well informed New York City lawyers who gave every appearance of having made a careful study of the entire 900-page Warren Report. All four had pages marked for instant citation and quotation. They took over the entire audience participation.

37. As Exhibit 4 does not boast to FBIHQ, that dramatic confrontation actually ran two hours longer and reportedly got the station the highest ratings when it was aired. How these lawyers could have been so well informed is apparent in the second paragraph of Exhibit 4: the FBI did the work for them and for the station. It is phrased with FBI stereotyped language denoting leaking, the

pretense of providing "public source" information. However, in this instance the New York Field Office confessed to a bit more, never expecting the record to be seen outside the FBI: "all public source data and material which refuted criticism placed on the FBI." (emphasis added) This states specifically enough that the FBI undertook to provide information for others to use against me with the intent of injuring me.

38. In the same long report, which is carefully written not to disclose that the exploit kicked back, the FBIHQ canard of my being anti-FBI and anti-Warren Commission members is refuted on page 2. There it is stated that "he did not hold the FBI responsible for the Commission's report" and "explain(ed) that each member of the Commission was a dedicated man, fair, and put out his best work."

39. Exhibit 4 also states the show ran unexpectedly long. As it does not state, this dramatic confrontation with those FBI-prepared lawyers lasted an hour and a half. It required that much time, even in a gang-up, for these four lawyers to learn that FBI preparation is not necessarily factual or adequate preparation. There was an unforeseen result for which I also am not unappreciative. No copies of my first book were on sale the Monday after that Saturday midnight telecast. By the end of the first week, this unknown book was the best-selling work of nonfiction in New York, although I had no organized distribution or means of distribution. Wholesalers and book stores clamored for it by phone, beginning about 3 a.m. that Sunday morning, thanks to the FBI's effort to ruin my book and me with my first television appearance. However, I regard what the FBI did as improper for government and more improper for a police agency.

40. These are neither my only such experiences nor the only proofs of the monitoring by government of the expression of opinions and beliefs by me and other writers. As in another cause I informed this Court, I have a whole box of CIA transcripts of my appearances. I note the absence of any CIA denial in that cause as well as its failure to provide its copies in response to my request now of more than eight years ago.

41. If the Court desires, given more time I will provide many other illustrations of prejudice and discrimination against me and their resultant as well as causative inspiration of seemingly perpetual noncompliance and as a consequence the unnecessary burdening of the courts. This would include other records relevant to my instant request relating to the processing and release of

the files in question.

42. Among the withheld records relevant in this instant cause are existing records relating to prior disclosure to others of what I requested earlier (see Exhibit 1) and what was included in the general releases the first of which was on December 7, 1977. This is another manifestation of prejudice, discrimination and arbitrariness and capriciousness. With more time to search my records, I would provide additional proofs of this, including news accounts of the content of these records that I had asked for and had not been provided.

43. There was what amounts to an exclusive release to Paul Hoch. As I recall it was of three entire Sections or about 600 pages. This was long before the December 7, 1977, release. All records of that arrangement relate to the processing and release of the general releases and are within my request. The obvious FBI motive for withholding these records is to cover its discrimination and its overt dishonesty in its public pronouncements of equal access for all.

44. My first official notification of these releases was several months after the initial exclusive disclosures to Hoch. While the FBI's letter to me, attached as Exhibit 5, is dated December 2, 1977, it did not reach me until December 6, the day before the first release. Under my circumstances it would have been impossible for me to arrange to make any real examination of any records the next day. But I note the false representation of first release in paragraph 2: "The first segment of these materials will be made available beginning 9:30 a.m., December 7, 1977 ..."

45. I have previously informed the Court of the difficulty of access to some of my files coming from my medical limitations. Now there also are pressing time considerations. I have and with time can provide other proofs of my immediately preceding statements relating to discrimination, prejudice and prior release to Hoch (and others) of what I had requested earlier and had not been provided. In the course of the immediate and limited search I was able to make I came upon a proof indicating that my February 14 affidavit relating to dishonesty in the worksheets is considerably understated. In the portion of that affidavit relating to the FBI's worksheets I stated and proved that rather than a single set of worksheets, the set provided to me, there was a second FBI set on which there is relevant information not provided to me. I now find there is at least a third worksheet version.

46. Under date of November 26, 1977, which is prior to the date of first release represented in the FBI's letter to me, Exhibit 5, Hoch sent me a copy of one of the pages of worksheets that had been released to him along with some other papers and personal comments. I attach this Hoch worksheet as Exhibit 6. (Hoch added the typed notations.)

47. This Exhibit 6 worksheet is not the same as the one provided to me in this instant cause, which I attach as Exhibit 7. These are entirely different versions. They do not itemize the identical underlying records. Another obvious difference is improper obliterations on the Hoch set. The withholdings from Hoch, who does not have my record of taking the FBI to court, includes information the FBI is required to disclose, the exemptions claimed. Comparison of the inconsistent versions of allegedly identical records reveals different entries, different handwriting, different information and other differences, even though both sets are dated July 1977.

48. I cite as significant and indicative of withholding from me the fact that, while only two entries appear for Serial 91, the first item on each set, three such records are listed on the worksheet provided to Hoch. I regard this alone as relevant in this instant cause as proof of deliberate misrepresentation and of withholding to cover which false affidavits were provided. Withholdings from Hoch, on the other hand, in four instances extend to even the numbers of pages released, hardly secret or information within any exemption. In one case, Serial 96, the fact of referral to the CIA is withheld from Hoch. None of what was stricken through relating to the next entry on my worksheet was even posted on his set. What is incredible regarding my set is that while two pages are indicated as withheld, each and every one of the exemption claims noted is stricken through. As a result, the withholding from me is without claim to any exemption.

49. I believe that Exhibits 6 and 7 raise new and substantial questions about the integrity of the FBI's representations to this Court, particularly questions about the integrity of the Benson affidavit. Benson is an FBI "national security" expert with an established proclivity for finding "national security" secrets in the public domain. I note (b)(1) claims on the copy of the worksheet provided to me and no single (b)(1) claim on the Hoch copy relating, supposedly, to the same records. I cannot see how the FBI can justify making a (b)(1) claim with regard to records withheld from me when it did not make the (b)(1) claim for

the identical records earlier provided to Hoch.

50. If the worksheets were a single and honest set of itemizations, as they are supposed to be, providing them to me required little more than the mechanical act of taking them to self-feeding and collating Xerox machines with which the FBI is equipped.

51. The worksheets date to the middle of 1977. None were sent to me until April 12, 1978. Hoch sent me Exhibit 6 in November 1977. He may have written me about the underlying records prior to a letter about them of a month earlier, October 8, 1977. This is to say long before the general release of December 7, 1977, and a half year before any copies were provided to me Hoch had worksheets withheld from me.

52. The covering letter sent to me with the worksheets is attached as Exhibit 8. My prompt appeal, dated April 19, is Exhibit 9. It is obvious that xeroxing existing and disclosed worksheets did not require all the time taken by the FBI, not until after my complaint was filed.--

53. While the foregoing Paragraphs detail added proofs of what I have characterized as discrimination to withhold from me and not to comply with my requests, I believe they hold proof of much more serious offenses. There clearly is less than full and truthful representation under oath by two FBI agents, both qualified as experts. I believe there are substantial questions of fraudulent misrepresentation and of false swearing to the material. Compliance was a material question at the time of the filing of the affidavits. With the Court's Opinion based entirely on these affidavits, their materiality now appears to be more than greatly enhanced. The entire case has turned on them and on them alone. The Court paid no attention to any of the information I provided and made no reference to any of it. While the Court did foreclose the possibility of my making response to the Benson affidavit, it is clear that the Opinion is based on these two affidavits and says it explicitly.

54. As the Court will be aware on reading my February 14 affidavit, I was greatly concerned over the Court's integrity and the FBI's unhidden attitude toward the Court. In the affidavit I was denied permission to file prior to the issuance of the Opinion, I drew upon much and in some ways unique knowledge and experience in an effort to inform the Court that, based on this experience and knowledge, I believed that the FBI was treating the Court as a sure thing, as virtually a

rubber stamp.

55. I have extensive experience with the most dubious of official affidavits, much experience with undenied false swearing in official affidavits, so I am aware that with the prosecutor not prosecuting himself taking liberties with truth and with the courts is not exceptional in FOIA cases. However, I have no prior experience with two FBI agents both swearing falsely to compliance based on three contradictory sets of worksheets. I recall only one prior experience with a phony worksheet. That was provided by the same SA Horace P. Beckwith who combined with Benson in this instant cause to swear to full compliance although copies of all three mutually contradictory worksheets are by the FBI unit with which he worked. I provide further information relating to Beckwith below.

56. In all my extensive prior experience I recall no such daring and combined flaunting of unconcern for any retribution. I regret that from this long experience and the expertise the Department states I possess I see no interpretation for these and other flagrant abuses other than coming from an FBI certainty that under any and all conditions this Court would find for it and ignore any offenses by it. I am truly sorry that the Court prevented my alerting it to this possibility. As the affidavit executed before the Opinion was issued makes clear, I did make the effort.

57. For the information and understanding of the Court, I believe that, beginning with my C.A. 75-199⁶, this instant cause is the only case in which worksheets did not accompany the underlying records.

58. To convey the significance of this I state that outside of this case before this Court I have no prior experience with FBI worksheets not accompanying the underlying historical-case records where the records inventoried total I would estimate at least a quarter of a million pages. These records outside of this case relate to the Presidential and the King assassinations. These may be the two most extensive investigations in FBI history.

59. The FBI's April 12 letter, Exhibit 8, appears to be unique in another respect. I can recall no other instance, before or after this date, in which the FBI did not represent that compliance was claimed to be complete or that other records would be provided to complete compliance. Exhibit 8 does neither. It merely implies that providing the worksheets constitutes compliance, the fiction with which this Court and through the Court I have been victimized. The formula

appears to be that G. Beckwith, a special variety of FBI expert, as is set forth in later Paragraphs.

60. My prompt appeal, Exhibit 9, spells this out. There has never been any FBI denial and there has been no response to or action on my appeal. The appeal is now 10 months old - under a 20-day Act and with a case in court.

61. With my appeal I enclosed a copy of the FBI's April 12 letter. My third paragraph states without any subsequent denial that the FBI's letter "makes no reference to the fact that the request is for more than just the worksheets ..." I also refer to the fact that the Department was supposed to be "monitoring compliance ..."

62. In my July 14 letter to the Department's appeals officer I refer to another letter relating to the worksheets involved in this instant cause. Primarily that letter addressed other worksheets copies of which I attached to show that they "are backward and upside down. They are also numbered in reverse..." With regard to the worksheets involved in this instant cause I reminded the Department "I've already informed you that the FBI is making (b)(1) claim to the public domain." In this I am stating that the Department was made aware of this long before the filing of the Benson affidavit I addressed in my February 14 affidavit.

63. In later Paragraphs of this affidavit I provide other proofs of this located by accident on February 17.

64. On a more informal basis, seeking to eliminate problems with compliance and to alert the Department to the actualities of noncompliance in this instant cause, I wrote the appeals authority on July 12. This letter, attached as Exhibit 10, states that the FBI has misrepresented and had sworn falsely in representing that there were no other relevant records. I cite this with reference to Exhibit 5 and the many other such notifications, which are within my request. I also informed the Department that the FBI had "already released some of the records on a grossly discriminatory basis to others," as I specify above with respect to Hoch. All such records are within my request which, as this letter states, is for scholarly purposes. In this letter I also spelled out what I go into in my February 14 affidavit about the withholding of public domain information relating to Oswald in Mexico. I believe it is apparent that I was informing the Department fully and from the lack of any denial quite accurately about the perpetuated and deliberate noncompliance in this instant cause.

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65. (In this connection and with regard to the Jensen affidavit's claim to secrecy about the known cooperation with the Mexican police, a college student who was using my CIA files on Saturday, February 17, selected some of these reporting what had already been disclosed about this allegedly secret cooperation. These excerpts and an explanation follow below.)

66. Most agencies and employees do not regard lightly allegations of deliberate false swearing to the material, the record that exists in this instant cause that I drew to the Department's attention in Exhibit 10 without even pro forma denial. In this connection and context I amplify my prior references to SA Horace P. Beckwith. He was assigned to the FBI FOIA unit in a supervisory role. He therefore had access to and certainly should have had personal knowledge of the existence of the other and still withheld records relating to processing and release that are within my request. In fact, it appears to be Beckwith who wrote Exhibit 8 to me in the name of the FBI's FOIA chief, Allen McCreight, because the initials "HPB" are written after McCreight's name. Unless there was another FBI FOIA SA whose initials are identical with Beckwith's, he had personal involvement in and knowledge of the instant matters yet did swear unfaithfully to this Court.

67. Beckwith, whose prior FBI experiences include clandestinity and illegal violation of the rights of Americans, appears to have evolved the formula in which the FBI would merely imply full compliance in this instant matter without provoking me by stating that falsehood in the letter. Inside the FBI and Department his craftiness would be regarded as representing full compliance while he avoided overt false representation of it in the letter. He did not lie but he did make a clever and successful effort to deceive.

68. At the time, although it was not general knowledge, Beckwith was an unindicted co-conspirator in the criminal case in which former Acting FBI Director L. Patrick Gray and others once high in the FBI are charged with serious offenses. This means that Beckwith's future was at stake, that his retirement, for example, could be denied to him at the whim of the Director or through other high officials if he incurred their displeasure. Under any circumstances, however sympathetic I am to his plight, I believe that the use of an unindicted co-conspirator to provide an affidavit and keeping this unusual qualification secret from a court are neither normal nor proper. In Beckwith's case prior to the Court's Opinion there was major news attention in Washington. His firing was front-page news.

His successful appeal, which resulted in punishment and reinstatement at a reduced level of rank and pay, attracted a little less attention. Both were reported prominently.

69. Whether or not it was his idea, it appears that Beckwith drafted Exhibit 5 and the formula of the prevailing false representation of pretending that my actual request was not made and that I asked for the worksheets only. However this may be, it simply is not possible that anyone connected in any manner with either the processing or the release of the underlying records was not aware of the existence of many more records relevant to my actual request.

70. My request includes more than the written notifications, press statements, plans for the actual release and arrangement for providing copies to the press and others. Among the other records that must exist and are relevant are those reflecting the reasons for ignoring the major repositories of records relating to the assassination and its investigation, the field offices, especially Dallas, the "Office of Origin."

71. Records relating to inventories of the Dallas files have not been provided in this instant cause. Those I provide herewith also were withheld in C.A. 75-1996 where they are quite relevant. These attached records are well known within the FBI's FOIA unit. Through their involvement in C.A. 75-1996 the existence of these and a hundred or more similar inventories should have been known to Beckwith and the Civil Division, which is Department counsel in this instant cause and in C.A. 75-1996. I obtained the copies of Exhibits 11 and 12 from the Dallas files in C.A. 76-0322. I believe I obtained these copies only because those processing the Dallas records were not aware of the earlier withholding from other files in the other cases in which they are relevant.

72. Exhibit 11 is an FBIHQ directive to all 59 field offices to provide inventories of all records relating to the assassinations of the President and Dr. King. The date is a half-year prior to the processing of the underlying records involved in this instant cause. Exhibit 12 is the response of the Dallas Field Office.

73. Exhibit 11 means that each of the 59 field offices was required to provide an inventory to FBIHQ. Exhibit 12 represents the vastness and uniqueness of the Dallas files.

74. On other recent occasions FBIHQ had similar needs and made similar

requests of all field offices. I do not have copies of them.

75. The Dallas collection, which later was enlarged, is of much more than the approximately 9,500 serials indicated. This volume alone, however, represents an enormous and significant storehouse of important historical information. A large number of records is not included in this inventory, which is limited to the carefully drawn FBIHQ directive. Many relevant and significant records not in FBIHQ files are in Dallas files. Illustrative are those attached to my February 14 affidavit relating to photographs of the crime and the crime scene. There is the unique record existence of which was kept entirely secret until inadvertent disclosure to me in C.A. 78-0322, "A special John F. Kennedy assassination files indices (sic) consisting of approximately 40 linear feet of 3x5 index cards ... maintained separate from the general indices ... also a special communications index" of about 30 inches, also maintained "separate from the general indices." (Exhibit 12, page 5)

76. These indices are within my other information requests. They have been withheld and I have appealed the withholding. There has been no decision on the appeal although months have elapsed. However, there is, as I indicated in my February 14 affidavit, a vital need for these indices in processing if the records released are to be processed properly. An illustration I cite is for the FOIA processors to have a means of knowing what is within the public domain. I therefore asked for the indices to be available to the FOIA processors. This is separate from providing me with copies pursuant to my requests because of the enormous and essential historical value these indices have. Without these existing indices there is no reasonable access to the hundreds of thousands of pages of information that are indexed.

77. If these indices had been consulted, there might have been less likelihood of misleading this Court into believing that what is within the public domain is an authentic national security secret. This Court might have avoided the embarrassing situation coming from its Opinion holding that what is within the public domain - including in the underlying records - is authentic national security information and is properly withheld.

78. As Exhibit 12 states, Dallas is the location of major and unique records. But FBIHQ represents otherwise, which provides added motive for withholding relevant records in this instant cause. The intent to mislead and deceive the

country and requesters as well as other officials of Government is apparent in Exhibit 5 where on page 2 it is represented that the second release, of January 18, 1978, "will cover the balance of our substantive investigation concerning this historical event."

79. The large number of relevant records originally withheld and since provided is among the proofs of the FBI's knowingly false representation quoted in the immediately preceding Paragraph. I received thousands of pages after the filing of the Beckwith affidavit.

80. The immediately preceding Paragraphs include substantial reasons to believe that among the records still withheld and relevant to my request are records relating to the nondisclosure of such relevant records as are indicated in these Paragraphs. Records relating to nondisclosure are within my request.

81. With time I now do not have I could provide many other illustrations of records relevant in this instant cause and not provided. Knowledge of their existence was withheld from the Court by the FBI. I could also provide other illustrations of motive for withholding and of embarrassing withheld information in addition to what is in this affidavit and that of February 14.

82. By foreclosing me from providing information that addresses the infidelity of the Benson affidavit and then almost immediately issuing its Opinion, the Court actually held (on pages 1 and 2) that it is right and proper to withhold as a matter of national security what is within the public domain, including what was already disclosed by the FBI and its FOIA unit without national security claim. My February 14 affidavit was executed prior to the date of the Opinion.

83. The Opinion reflects the Benson affidavit other than as I recall, perhaps the consequence of haste. The Opinion states that what is withheld in this instant cause "was supplied by foreign police agencies ... under a promise of confidentiality." No such record is or can be involved in this request and litigation. This language is from Benson's boilerplated generalities. Benson's actual allegation, clearly false, is that for reasons of "national security" the worksheets could not "reveal" the abbreviations of the identifications of these cooperating foreign police agencies. His false representations are that their identifications are not known and that the FBI had not already made the disclosure in the underlying records.

84. The Court appears to have been so impressed by the FBI affidavits that

the Opinion covers much more and goes much further than the very narrow question of the ludicrous alleged need for secrecy of initials like RCMP, which as I show in my February 14 affidavit had never been withheld before and were actually disclosed with the underlying records. The question before this Court was anything but "unauthorized disclosure," there being nothing to "disclose." (top of page 2) The honesty of the FBI's representation of "disclosure" is an ignored issue in this instant cause because of authorized earlier disclosure prior to and in the underlying records.

85. The Opinion also states that "substantial weight is to be accorded to agency affidavits." In context this means that a court must accept false swearing as gospel. The Opinion makes no reference to the absence of any affidavit disputing mine or of proof that material facts are not in dispute. If there is compliance with the Item of my request related to worksheets, as there is not, there is no representation to any compliance with the rest of my request. In fact, I have not received any compliance with the rest of my request, not a single piece of paper. Nor is there any affidavit attesting that the information sought in the rest of the request does not exist. Obviously there can be no such affidavit when I attach as exhibits copies of records of the nature of some of what remains withheld. I believe my affidavit is not contested. It is merely ignored by the Court.

86. Not being a lawyer I have trouble comprehending the language of the Opinion that "There has been no showing of lack of good faith on the part of the FBI." Lacking an education in the law, I labor under the layman's impression that false swearing is the opposite of good faith and that a affidavit alleging false swearing, if uncontested, is a "showing of a lack of good faith." I have received no affidavit in attempted refutation of my affidavit.

87. The Opinion states (at the bottom of page 2) that withholding file and symbol numbers is right and proper under Exemption 2. This is contrary to the testimony of the Department's own appeals officer in my C.A. 75-1996 on January 12 of this year. The Act includes the words "solely," "internal" and "personnel" as preconditions for the applicability of Exemption 2. I know of no claim by the FBI in this instant cause that its claim to this exemption meets all these requirements of the Act. Because of the limitation of this exemption to internal personnel matters, it is not applicable to file numbers that do not relate to FBI employees. Even if informants, who are not regularly FBI employees, were to be

encompassed, file numbers not used for the filing of personnel matters are withheld from me. The actual purposes served by such withholdings include preventing evaluation of information and hiding improper FBI activities.

88. At this point the Opinion expresses concern for "the disclosure of the identity" of FBI informants. As the Court appears to have understood it, this would be the consequence of not withholding arbitrary symbols used by the FBI for precisely the purpose of preventing disclosure of actual identity. While I cannot state that there is no obliteration of an informant symbol on any worksheet there is no need, in the processing of records, for informant symbol numbers to be included on any worksheets. Disclosure of the symbol identification does not disclose actual identity. Moreover, the FBI has disclosed symbol identifications to me as well as actual identities. It has disclosed actual identities to others.

89. To my knowledge the FBI has identified a number of its informers by name to the House Select Committee on Assassinations and caused them to become committee informants. In at least one case this was over that informant's written objection, which I have. While I agree with the need to protect informants, no issue of actual identification is involved in this instant cause and the FBI's practices with regard to the identification of informants is arbitrary and capricious. It makes disclosure for political purposes. In one recent case, when it sought to plant bad information with this committee, it turned over an informant known to be fabricating bad information. The informant was then turned over to Mark Lane by the committee. I have the FBI's records of that informant's complaint. The FBI's practice, even if the claim in this instant cause were justified, as it is not, is other than the FBI represents..

90. Purposes actually served by withholding arbitrary symbol numbers and file numbers, which also do not disclose any names, ^{are} to hide FBI use of sources known to be undependable, use of the bad information they supply and to hide improper FBI activities.

91. I recall no relevance of the language of the Opinion on page 3 relating to the public interest in knowing informers' names. I have never, including in this instant cause, ever raised any such question or demand. I recall no FBI claim that any informer's name is involved.

92. On page 3 the Opinion refers to claim to the compilation of records for law enforcement purposes. I am not aware of any proof of any such compilation

in this instant cause. In my February 14 affidavit I cite the fact that there was no federal jurisdiction with regard to the assassination of the President. FBI Director Hoover so testified.

93. Moreover, the records involved in this instant cause are worksheets used in FOIA processing and other records relating to disclosure. If records relating to the assassination had been compiled for law enforcement purposes, as they were not, this appears not to be applicable to any records involved in this instant cause, which are limited as stated above.

94. With regard to the propriety of withholding the names of the special agents who processed the records, I can provide abundant proofs of the arbitrariness and capriciousness of this latter-day FBI claim. In fact, the names of those who processed more than 90 volumes of FBIHQ records relating to the assassination of Dr. King were included on the worksheets. As a result I was able to pinpoint an agent whose abuses of the exemptions was more spectacular and to demand and obtain his removal from FOIA processing. I believe this accounts for the present withholding of their names. I know of no instance of the withholding of any FBI name prior to the 1974 amending of the Act. There is no such withholding in the 10,000,000 published words of Warren Commission records.

95. With regard to the names of "individuals coming to the attention of the FBI who were not the subject of the investigation," of whom the Opinion states the belief that in this instant cause withheld information pertains to them, I know of no such issue or question in this instant cause which relates only to the processing and release of records. However, the Opinion here is in opposition to well-known and officially announced public policy and the Attorney General's determination that this is an "historical case," which requires more liberal disclosure. The Attorney General's policy statement requiring the disclosure of names to which the Opinion refers was made on May 5, 1977, if those names were involved in this instant cause, as they are not. From the Opinion the only names that would be disclosed are those of the dead, of Lee Harvey Oswald and Jack Ruby. They alone were "the subject of the investigation."

96. At the top of page 4 the Opinion represents that the FBI, with regard to the worksheets only, "invoked Exemption 7(D) to withhold the identity of confidential informants and information supplied by them." I am aware of no possibility of those questions existing on the worksheets, the only records

provided in this instant cause. I am not aware of the names of the informants or the information they provided is ever posted on any FOIA worksheet and I am not aware of any such need in creating or using the worksheets. I have read FBI FOIA worksheets covering the processing of hundreds of thousands of pages of underlying records. I have no recollection of ever having seen "the identity of confidential informants" or "information supplied by them" posted on a worksheet.

97. Moreover, Exemption 7(D) is not a blanketing exemption under which, under any and all circumstances, all "information supplied by" informers may be withheld. Informers, from copies provided to me by the FBI, supply newspaper clippings. While the information supplied by informers is not and cannot be an issue in this instant cause, the FBI's public reading room holds countless thousands of pages of "information supplied by them," FBI informers.

98. The Opinion's reference to "information provided by ... commercial or institutional sources" appears to reflect the misleading of the Court by the FBI's boilerplate. There is no relevance to worksheet entries. In fact, the FBI has always disclosed such information, hundreds of pages of it to me alone. The publicly available and published Warren Commission records include much such information provided by the FBI.

99. In my February 14 affidavit, I state that in this instant cause the FBI withheld what is within the public domain under spurious claim to a "national security" need. I provide examples of this reductio ad absurdum, of Benson swearing that disaster impended the entire police and intelligence systems if he did not withhold what is actually disclosed in the underlying records and in any event was not and never had been secret. Most of those illustrations relate to the Royal Canadian Mounted Police. In my February 14 affidavit I also stated that this is no less true of Mexico and that the FBI in the past made available information provided by various Mexican components. Beginning in 1976 the FBI provided me with much information relating to the King assassination provided to it by various foreign police organizations, including Mexican. Much information of this nature has always been available in the Warren Commission records. Earlier in this affidavit I referred to the finding of relevant records by a college student researching in my CIA files.

100. In what follows I provide as Exhibit 13 a small selection of CIA records disclosing its and the FBI's cooperative arrangements, both ways, with the

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Mexican police. Exhibit 13 includes the CIA's number identifications of the records. These records are a small portion of a few of the earlier records from only the first part of the first batch of JFK assassination records disclosed by the CIA to me and others about the end of 1975. There are many other such records.

101. There are probably many more such CIA records in the public domain. The five attached examples were selected by an inexperienced undergraduate who was reading these CIA records for another purpose. I lack time for a personal search.

102. The cover page of #103-42 has this CIA handwritten explanation: "Information of (sic) Oswald passed on to Mexican Government." This discloses the kind of cooperation Benson swore is secret.

103. #56-20 reports what could have come only from Mexican authorities, that Sra. Silvia Duran would "be arrested immediately and held incommunicado..."

104. #59-23 reports that the CIA was passing information to "GOM AND ASKING THEY CHECK BORDER AIRPORTS." "GOM" is Government of Mexico.

105. "Copies of photo of Oswald reproduced for use of Legal Attache with Mexican police" is the information restored by hand after excisions from #11-6A.

106. Cooperation Benson swore is secret is explicit in #158-610, a cable that includes: "MEXICAN AUTHORITIES SHOULD INTERROGATE SILVIA DURAN TO EXTENT NECESSARY (to) CLARIFY OUTSTANDING POINTS WHICH BEEN RAISED YOUR CABLES LAST 48 HOURS. YOU MAY PROVIDE QUESTIONS TO MEXICAN INTERROGATORS..." (sic)

107. All the immediately foregoing records and without doubt many more CIA records reflecting Mexican cooperation with both CIA and FBI were in the public domain long before this rush to summary judgment. They and all the many such records relating to the King assassination provided to me by the FBI in C.A. 75-1996 and all the published and unpublished but available Warren Commission records disclosing foreign police cooperation were in the public domain prior to the Benson and Beckwith affidavits and prior to the creation of the worksheets.

108. Because my work is not concerned with idle conspiracy theorizing and does examine and is concerned with the functioning and integrity of our basic institutions, of which the judiciary is a most essential one, I deeply regret my inability to serve the Court better. This was an inevitable consequence of foreclosing me by refusing me a few days in which to provide my affidavit of February 14 and virtually simultaneously issuing the Opinion. While foreclosing

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me from providing relevant and truth^{ful} information the Court gave unquestioning credence to FBI affidavits making nonexistent "national security" claims. If it is ever embarrassing to this Court that it held what was within the public domain and was never secret to be important "national security" secrets, it is in no way my responsibility. It is contrary to the effort I made to avoid the FBI-victimizing and the self-victimizing of the Court.

109. In the course of what search I was able to make to obtain information for this affidavit, I chanced upon a Government request for a month's extension of time. This was granted by the Court. My treatment was not even-handed.

110. Government counsel is not engaged in sole practice or representing a client who is unable to pay for legal services. Government counsel does not have an aging and ill client. Government counsel's client is not 50 miles away and unable to drive that distance. Government counsel's client does not have Social Security as the only regular income, is not without any staff, and is able to afford long-distance calls to confer with counsel.

111. In my efforts to safeguard the integrity of this Court, I noted depositions on August 16, 1978. The Court foreclosed me. In this I believe the Court foreclosed itself and jeopardized its independence from self-serving official claims that by then had already been challenged under oath.

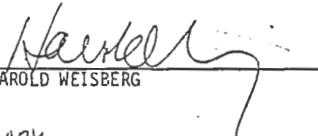
112. If I had been able to take depositions, which I can ill afford but sought to do and in the past had been instructed to do by the court of appeals to establish the existence or nonexistence of the information sought, a direct parallel with this instant cause, the possibility of embarrassment to the Court might thereby have been avoided.

113. If the Court does not accept my assurances of concern for the integrity of courts as one of our basic institutions, I sincerely regret this. I point to the costly and extensive efforts I have made to provide full and detailed information in this instant cause as in all others I have always undertaken to do. I am limited by not being a lawyer. I have serious medical and financial limitations. But despite these handicaps and an inability to confer with counsel in the preparation of affidavits, I have made the best efforts possible for me. I have been unstinting with my time when how much of it remains to me is uncertain.

114. If any part of this affidavit is unclear, I regret and apologize for it. The conditions under which I prepared this affidavit were difficult, the time

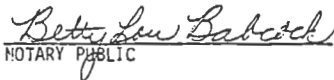
pressures heavy. To prepare a draft, on a single day, Saturday, I worked without any major interruption for almost 19 continuous hours. I did not stop for lunch. I gulped a hasty supper in about a quarter of an hour. There was no time for me to outline this affidavit in advance. It has not been possible for me to consult with counsel, to whom I will deliver the executed affidavit as soon as possible. I did not even engage in the course of exercise prescribed as essential to my medical situation and problems. To be able to read and correct the hasty draft, I had to get up the next day, Sunday, at 4 a.m. and then worked for 17 hours. To be able to hope to deliver the affidavit in time, my wife had to begin retyping it before I was finished, an undesirable practice. I did not prepare the speech I am to make, as I should have. The day before scheduled departure I found myself separated from the highway by 400 feet of snow up to two feet deep, but this affidavit took precedence over everything. I believe that if I were younger and in perfect health this still would represent a major effort and a taxing and rigorous period. I explain the actualities of my life, as I have undertaken to do in the past, so that the Court may understand that unclarity or awkward structures are not intended.

115. If the Court desires more information, I am willing to provide all that is possible for me. Although I am more weary and soon, inevitably, will be even wearier and will face a large backlog of matters neglected for the preparation of these affidavits, to the degree possible I will attempt to provide any necessary information because I believe in all interests the Court should reconsider its decision.


HAROLD WEISBERG

Before me this 21st day of ~~January~~ ^{FEBRUARY} 1979 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires October 8, 1982


NOTARY PUBLIC



<u>Exhibit No.</u>	<u>Page</u>	<u>Paragraph</u>
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Information requests of Department of Justice by Harold Weisberg

This list is not inclusive. There is a file of correspondence more than an inch thick I have not yet been able to go over. I recall none of my many checks not being cashed. This list includes 29 requests, not counting the many duplications of some of them. When with regard to one of those there was an exchange of more than 40 letters during my repetition of that one request. If the actual number of repetitions are counted, there were in excess of 100 requests with virtually total noncompliance.

Four of these earlier requests are for information in the King assassination. My requests represented in C.A. 75-1996 are not included in this listing. There has not been compliance with any of these four requests or a later, relevant one.

One of these requests was complied with after eight years of effort by me. After six years there was partial compliance with that request by another agency. The Department still has and still withholds relevant records, some of which I have obtained from a nonofficial source, which gives me personal knowledge.

In two cases there was incomplete compliance.

In three cases the records sought were claimed not to exist. In at least two this is proved to be false.

In one case one picture I have sought for more than seven years was released to another. It is more than three months since my protests. There has been no response and no compliance - after almost eight years, despite release.

1966

May 23, for spectrographic analysis JFK assassination. Still in litigation.

1967

July 10, for FBI press release. This press release related to my second book, unpublished at the time the press release was issued. Additional requests of four different Attorneys General on January 1, 1969, June 2, 1969, August 13, 1973, and September 27, 1975. Obtained October 17, 1975.

1966

September 14, repetition of January 11, 1967, request of National Archives for Department of Justice records on David W. Ferrie. After an exchange of not fewer than 44 requests and letters, after invocation of (b)(7), incomplete compliance December 21, 1970. Nothing since then.

1969

January 1, FBI photos, reports filed, not given to Warren Commission, taken by Moorlan, Powell, Doyle and Martin. Number of repetitions of this request. They include WFTV and WFL news film. No compliance.

January 1, fingerprint on leaflet supposedly taken from Lee Harvey Oswald. Not Oswald's print. Number of repetitions of this request. Never provided.

March 24, King assassination evidence, including ballistics, material given other writers, crime scene pictures. Not complied with.

March 30, reference to my January request for "Memorandum of Transfer" of JFK assassination evidence. "I have written many times," meaning to Archives, for what "I believe cannot properly be denied me." Earlier the Secret Service, the agency of paramount interest, had given this record to me. It was intercepted by the Archives and the Department of Justice and was denied me, despite many efforts and letters, until I was about to file a complaint. While other relevant records remain withheld from me, the memo was sent on March 28, 1975.

March 31, King evidence, press statements on case.

April 23, above repeated.

June 2, above repeated.

June 2, working papers of panel of experts who had made a secret examination of the JFK autopsy film and whose report had been released. Within a year I made at least a dozen efforts to obtain these records. I have found that many letters. Filed several DJ LHM forms. Eventually I was told, not by the Department, that these records had been destroyed.

November 4, request for records on "a missile" recovered during JFK autopsy.

1970

April 22, request for color pictures of JFK's clothing showing damage, other than those given Warren Commission. When I went to court and only then was permitted to see some of these pictures, the reason became apparent: some of the evidence had been destroyed, particularly by the unknotting of the necktie after the Warren Commission used that knot as evidence. No compliance.

May 14, another repetition of the Ferris request. Withheld under (b)(7) June 12, 1970. Later, incomplete compliance.

May 16, two DJ 118 forms with checks totaling \$15, neither ever provided:

- 1) Picture of "missile" recovered during JFK autopsy;
- 2) Records on chain of possession, processing of JFK autopsy film.

June 2, not then an FOIA request, protest to Attorney General over reports FBI agents were intruding into my life and work. Referred to Director, FBI, none of whom ever responded, even with pro forma denial.

September 15, FBI reports re Ronnie Caire. Eventually I was told what has to be false, that Caire was not interviewed by the FBI. It had represented to the Warren Commission that it had investigated all of Oswald's New Orleans job applications. Oswald had applied to Caire, who had a public relations agency and was active in Cuban endeavors in apparent violation of the neutrality act. Caire's address was masked in Oswald's addressbook.

September 15, resubmitted request on Oswald leaflet and fingerprint, as asked by Deputy's office, with check. After a number of other letters the denial was affirmed by the Attorney General December 14, 1970. As a result the identification of an associate of Oswald remains unknown. This leaflet was obtained by the New Orleans police from someone other than Oswald who was handing out Oswald's leaflets while picketing the carrier Wasp.

December 2, renewal of request of January 1, 1969, for photos and film turned over to FBI and not given to Warren Commission by it. Also ask for copies of reports filed by and about Powell. This was represented by Mr. Lesar as my first request because I then had not located that of January 1, 1969. Finally, on March 17, I was told what is false, that the film was all returned to those who had taken it. Of the Martin film, it "was viewed by the New Orleans office ... returned

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... The photograph (sic) taken by Mr. James W. Powell, Special Agent, Region II, 112th IRT, Army Intelligence Corps, Dallas, Texas, was returned to Mr. Powell on June 20, 1964. I had interviewed Martin and Doyle and been told by both that edited copies of their movies showing Oswald leafletting and being arrested in New Orleans had been given to them instead of the originals. Martin, who lived in Minneapolis, gave his film to the Minneapolis field office, not the New Orleans field office. I have a copy of the copy returned to Martin. Neither of these films had been given to the Warren Commission. It was not told they had been obtained. It was not even told of Martin's existence. Despite my making the initial request January 1, 1969, and the cashing of my 1970 check, one Powell picture was released to another in 1975. It was published in 1976. Director Kelley has not responded to my letter of protest of June 4, 1976, and I have never been provided with a copy or the relevant reports. The Army replied by telling me both do not exist. No compliance.

December 7, for copies of what had been referred to the Attorney General, sworn statements of pathologists and neurologists supporting the Warren Commission. There were nonresponses and appeals. The last record I have found is my request of the Attorney General that he answer my letters on this. Neither he nor his successors have.

December 23, amended September 15, 1970, request, Caire and leaflet fingerprint. (Repeated again on March 28 and April 13, 1971.)

1971

January 4, "list of what your Department has released" otherwise "it is necessary to go to the Archives and examine each page separately. March 16, Deputy replied this "is not one (question) of obtaining information under the Freedom of Information Act." I have never been provided with these lists, which are public records. As a result it has been impossible for me to examine the released records because of the cost in time and money. The Archives has refused my prepaid request to provide me with copies of all JFK assassination records as they are released.

February 17, repeated January 4 request
March 28, repeated January 4 request
April 13, filed new DJ 116 form on January 4 request with protest over delays.

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February 17, renewed request for pictures showing damage to JFK clothing.

March 4, filed new DJ 118 form on renewed request of February 17
June 25, Deputy rejected June 28. After five years no response to appeal.

March 28, new DJ 118 form on Cairns request of January 1, 1969, and September 15, 1970.

April 13, repeated above request.

March 28, new DJ 118 form on Oswald leaflet-fingerprint request of January 1, 1969, repeated September 15, 1970.

April 13, repeated above.

July 4, request for copy of indictment of New Orleans District Attorney Jim Garrison.

December 14, repeated request of July 4 for Garrison indictment. Not provided. Copies of attached affidavits only provided.

1972

June 7, request "for access to public information, the part of those files" reported in the New Orleans Times-Picayune "that relate to Pershing Gervais. That he is an informant is not secret, nor is what he did, or his subsequent history, which both he and the Department have publicized extensively." (As an informant Gervais, formerly close to Garrison, had himself wired with a bug and his phone calls taped in an unsuccessful entrapment effort. Garrison was acquitted.)

September 18, Deputy refused June 7 request while acknowledging it is for "public information." Instead of providing them, he referred me to the District Court in New Orleans for records it did not have. (But the Deputy did send me a copy of the speech by the Attorney General to the bar association.) No compliance.

1973'

July 28, Appeals of denials of two items of Watergate evidence
August 13, entered into the records of two different courts. My earlier requests of the United States Attorney for the District of Columbia and the Watergate Special Prosecutor had been denied on the ground that what had been entered into evidence and reprinted, including in facsimile, was an "investigatory file." There has been no response to any appeal. I have not found the original request and another appeal.

1975

October 27, repeated January 1, 1969, and later requests for the Doyle, Martin and other films. No compliance.

October 27, repeated verbal request of March 18 for copies of records relating to a Silvershirt plot to overthrow the United States Government. These were not returned after I gave some to the FBI THE end of 1939 or early 1940. To June 4, 1976, I wrote four additional letters. No compliance.

October 27, request for copies of FBI HQ files on Lee Harvey Oswald. No compliance.

October 27, repeated request of April 22, 1970, and later for color pictures of JFK clothing. In response Director Kelley wrote me February 13, 1976, saying they were running more than three months late. This was then more than three months. It is now 11 months and there has been no compliance. My request was then six years old.

October 27, request for files on me. No compliance.

November 28, above request repeated. It was pretended that I had not filed this request until Director Kelley admitted finding it in his letter of February 13, 1976. No compliance.

December 20, request for scientific tests related to the murder of Dallas police officer J. D. Tippit. No compliance.

1976

January 30, request for list of all my requests because some have not been acknowledged. No compliance.

February 20, request for all information on the late J. A. Milteer. (This follows up on requests of the National Archives for what had been withheld at the request of the FBI. When it was finally released it did not include what the Department had not given to the Warren Commission. This included a 1963 tape recording made by and later disclosed by the Miami police. I obtained a partial transcript from the Miami State's Attorney. The police said they had given the tape to the FBI. The tape includes details of threats against Dr. King and how he and JFK would be killed. The tape was exactly as the Warren Commission later said JFK was killed.) No compliance.

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June 19, by FOIA/PA appeal to Levi on "the denials of the various FOIA/PA requests with which there has been no compliance." No response.

July 14, the above requested repeated by certified mail, No. E99506. No response although I have since written Yr. Quinlan Shea.

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I delayed the appeals for twice the time Director Kelley had said responses were running late, until as long as the longest public statement of this time. Although response to appeal is required in 20 days, in three months there has not been even acknowledgment of receipt of the appeals. These appeals cover requests going back to September 14, 1968, eight years.

The 1966 request is still under litigation.

The 1967 request was finally complied with in 1975.

There was only partial compliance with the Ferris request of September 14, 1968. Among the records still withheld I know of FBI reports that Ferris was engaged in running guns to Cuba and similar endeavors. The FBI made these available to a private detective agency, to my knowledge. This private agency was run and owned by former FBI agents.

Using the Ferris request as an illustration, these records which did not qualify for withholding were withheld under the privacy exemption. Those records subsequently released to me do not qualify for this exemption. The apparent reason was official embarrassment. Ferris died within weeks of my first request. He had been dead for 10 months at the time of this request. He was unmarried. He left no children. What could have qualified for the privacy exemption was withheld from the Warren Commission. It is Ferris's record of sex offenses against young boys. (It was not released to me. I have other proofs. There was relevance in this and with regard to the other withheld Ferris records in the Warren investigation.) However, where political purposes were served by it, medical and other similar records, including of alleged homosexuality, were released to me, through the Archives. They are not included in the above list. I have neither used nor distributed copies. In earlier instances, where there had been no withholding, I censored

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what I used to overcome the Department's lack of genuine concern over authentic rights to privacy. One example is in my book, Oswald in New Orleans, dating to early 1967. It also includes accurate reporting of the sex charges against Ferrie. One of the Department's real reasons for withholding Ferrie records is the cozy relationship he had with the FBI in New Orleans. The FBI withheld its knowledge of where he was at the time JFK was killed. He and JA Regis Kennedy were both in attendance upon the federal district court. SA Kennedy's report - delayed a week - does not include this information. Ferrie was also a participant in anti-Garrison parties in the FBI's New Orleans Field Office. I have the notes of other participants, reporters. The Department appears not to have informed the Warren Commission that as the investigator for the defense in its effort to deport Carlos Marcello, reputed top Mafia figure, Ferrie conducted the investigation that defeated deportation. There is much more that is relevant to Ferrie and the Department's continued withholdings. I cite this merely as a means of attributing motive and showing that the exemption was invoked without any justification and why there has not been compliance.

The still-withheld photographs are another example.

The Army intelligence agent, Powell, was confined in the Texas School Book Depository Building for some time. He entered it before it was sealed. Prior to entering it, he took at least one picture, the one released to another years after the denial to me. It shows the front of that building immediately after the shooting. It was not in the Warren Commission files of pictures. The reports agent Powell filed also are not. He was in that building with a loaded 35mm camera.

The relevance of the Doyle and Martin films is obvious. They show the Oswald arrest. The Martin film also shows a different view of Oswald than other pictures. Taken from over his right shoulder he looks entirely different. It shows the other participants in the fracas that Oswald did not start. It also shows what can be taken as a man giving a signal.

My information on the withheld originals of the WDSU-TV footage of Oswald's demonstration outside the New Orleans International Trade Mart Building, which to my knowledge housed CIA cover operations, comes from the then news director of that station. He loaned me the copy of his footage that the FBI returned after borrowing it immediately after the JFK assassination. He gave me permission to reproduce it subject to normal

restrictions of nonpublic use without permission. I do have this copy. The refusal based on WDSU copyright is spurious. The real reason is that the FBI edited material out of that film prior to making and returning the copy. This information comes additionally from the man who was public-relations director of the Trade Mart. He and the news director previewed the original footage before lending it to the FBI, as soon as Oswald's name was mentioned from Dallas. He was in the original footage. He is eliminated from what the FBI returned to WDSU. Also in that now missing footage was another Oswald associate. He and the public-relations director were both eliminated. Seventeen still prints were made from the WDSU footage immediately, before the FBI obtained it. They were made by the photographer, Johann Bush. I have . . . FBI reports reflecting the showing of up to six of these at a time to those it interviewed. The Warren Commission files contain a total of only two of these. A third that may appear to be from the WDSU footage actually comes from that of WML, which also made its footage available to me. Confirming the above, I finally was able to persuade the Secret Service to deposit its copy of the remaining WDSU footage in the National Archives. It required a major effort by me over some period of time to obtain a copy of the caption by the Secret Service. It says the film shows Oswald and two others engaged in that leafletting. The remaining film, however, includes only one other, Charles Hall Steele, Jr. I interviewed Mr. Steele on tape. He also said there was another man in the film, a man he did not know, a man not now in it.

This does not exhaust my personal knowledge of this still-denied film. I intend it as bearing on motive for withholding what is not within any exemption of the Act.

I can do this with just about every item in these requests, in each case indicating motive for withholding.

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C.A-78-0249
EXHIBIT 2



Handwritten signature

HYATTSTOWN, MARYLAND 20725

Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Tracy
Rov

PHEASANT-CHICKENS • ROCK-CORNISH GAME HENS • WA

May 23, 1968

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Washington, D.C.

Dear Mr. Hoover,

Enclosed is a copy of my book, HIT-TASH - THE REPORT ON THE MURDER REPORT. In it you will find quotations from your testimony and that of FBI Agents that I believe require immediate and unequivocal explanations and from the FBI's report to the Commission. Of the many things requiring explanation, I would like in particular to direct your attention to these three, in which it would seem no question of national security can be involved:

1) In your brief discussion of the assassination in the report to the Commission you say that three shots were fired, of which two hit the President and one the governor. This does not account for the bullet that hit the curbstone on Conner Street, which you told the Commission you could not associate with the residential car or any of its occupants. In another part of this report, dealing with Oswald, you told the Commission that the bullet that did not kill the President struck him in the back - not the neck - and did not go through his body. Here you seem to fail to account for the well-known wound in the front of the President's neck. And thus, are there not at least five bullets, the three you accounted for and the two you did not account for. The Commission itself considered the curbstone strike a separate bullet, and the President most certainly was wounded in the front of the neck.

2) In his testimony before the Commission, ^{REC 53} FBI Agent Robert A. Frazier did not offer into evidence the spectrographic analysis of this bullet and that of the various bullet fragments. Neither did FBI Agent John F. Gallagher, the spectrographer. Agent Frazier's testimony is merely that the bullets were lead, which would seem to be considerable less information that spectrographic analysis could reveal. The custodian of this archive at the National Archives informs me this analysis is not included in his archive but is in the possession of the FBI. I call upon you to make it immediately available.

6 JUL 1 1968

3) In his testimony before the Commission, FBI Agent Frazier said that when the whole bullet was received by the FBI, it had been wiped clean. He does not reveal any FBI interest in this unusual destruction of evidence. He also testified that the cleansing of the bullet was not complete, that foreign matter remained in the grooves in the bullet. Yet his testimony does not show any FBI interest in learning what the nature of the residue was. Did the FBI make the appropriate tests. Could the residue be associated with either the President's body or the governor's? What effort, if any, was made to learn. And if no effort was made, why not.

Sincerely yours,

DSL34A

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PLH ITEM #940

Memorandum

TO Mr. DeLoach

DATE: June 6, 1966

FROM A. Rosen

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. Shroder
- 1 - Mr. Raupach
- 1 - Mr. Conrad
- 1 - Mr. Sullivan
- 1 - Mr. Wick

SUBJECT ASSASSINATION OF PRESIDENT
 JOHN FITZGERALD KENNEDY
 NOVEMBER 22, 1963
 DALLAS, TEXAS
 MISCELLANEOUS - INFORMATION CONCERNING

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
 Mr. Holmes
 Miss Gandy

SYNOPSIS:

A letter was received from Harold Weisberg of Hyattstown, Maryland enclosing his book, entitled "Whitewash - the report on the Warren Report." He believed that immediate and unequivocal explanations are required from the FBI in connection with the FBI's report to the President's Commission. He specifically demanded answers to three items.

(1) Relating to the number of bullets which were involved in the assassination he suggests five were fired. The Commission's report concludes three shots were fired.

(2) He states that in testimony before the President's Commission evidence was not introduced as to the spectographic analyses of a bullet and fragments. This is absolutely incorrect, since the testimony of a FBI Laboratory expert concerning spectographic analyses is set forth in the Commission's report.

EX-103 REC 53 62-109060-4132

(3) Weisberg alleges the whole bullet (located on Governor Connally's stretcher) had been wiped clean and that the FBI Laboratory expert testified that the cleansing of the bullet was not complete and that foreign matter remained in the grooves of the bullet. This is inaccurate since our Laboratory expert testified the bullet was clean when he received it and that there was no blood or tissue present.

JUL 1 1966

Weisberg formed his opinions after reading the FBI reports to the President's Commission dated 12/9/63 and 1/13/64. Both of these are located in the National Archives and are available to the public.

AMR:me:ecm
 (9)
 JUL Enclosures

CONTINUED - OVER

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PLH ITEM #941

Memorandum to Mr. DeLoach
Re: ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY

In connection with our original report to the Commission on 12/9/63, the Commission credited the Bureau by saying this report was of principal importance to them. Weisberg, in his book, describes this report in part as "neat, clean, colorful and optically attractive rendition of such tenuous content that a self-respecting undergraduate lawyer would hesitate to take it into an uncorrupted court."

His 208-page book has been reviewed. It is a vitriolic and diabolical criticism of the President's Commission, the FBI, the Secret Service, police agencies and other branches of the Government relating to the assassination investigation. Weisberg attempted to have his book published by 103 different publishers both in the United States and Europe, all of whom refused. He thereafter personally published a limited number and had it copyrighted in August, 1965. Weisberg, in his own comments stated, "In writing this book the author has had but one purpose. That was to show that the job assigned to and expected of the President's Commission on the assassination of John F. Kennedy has not been done." Weisberg has distorted the truth regarding the investigation of the assassination and has set forth his own theories and deductions of what should have been done. Illustrative of this, he contends the President was shot from both the front and back, and that another conspirator was therefore involved with Oswald. His book is full of errors and inconsistencies.

Due to the inaccuracies, falsehoods and deliberate slanting of facts to fit his own purpose, coupled with Weisberg's subversive background (memorandum Mr. Rosen to Mr. DeLoach, 6/1/66, attached) it is not felt the Bureau should add dignity or credibility to him by acknowledging his communication.

ACTION:

That Weisberg's communication not be acknowledged.

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Memorandum to Mr. DeLoach
RE: ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY

DETAILS:

A letter was received from Harold Weisberg enclosing his book entitled "Whitewash - the report on the Warren Report." He stated, in the book will be found quotations from the Director's testimony and that of FBI Agents that he believes require immediate and unequivocal explanations. He specifically pointed to three items which, in his opinion, "It would seem no question of National security can be involved." Weisberg indicated that in the brief discussion of the assassination in the report to the commission it was said that three shots were fired, of which two hit the President and one the Governor. Weisberg is referring to our initial report of December 9, 1963, furnished to the Commission. He read into this comment that this report did not account for the bullet that hit the curbstone and that the bullet that did not kill the President struck him in the back, not the neck and did not go through his body. He said this did not account for the wound in the front of the President's neck and therefore theorized at least five bullets were fired.

This matter has been thoroughly covered by separate memorandum as it relates to the article published in "The Washington Post" dated May 29, 1966. Weisberg's theory is completely in error as it is obvious he has not conducted thorough research into this matter as all pertinent information is available in the "President's Commission on the Assassination of President Kennedy Report."

In Weisberg's second point he states that in testimony before the Commission, evidence was not introduced as to the spectrographic analysis of a bullet and various bullet fragments. This is not correct since the Laboratory examiner's testimony to the Commission indicates that these items were examined spectrographically and were found to be similar in composition. The Laboratory examiner further pointed out that such similarity of composition does not necessarily mean that the fragments came from a particular bullet. Testimony as to the spectrographic comparison appears in Volume V, pages 67, 69, 73, 74 and in Volume XV, page 700.

In Weisberg's third point he states that the Laboratory expert testified that the bullet from Governor Connally's stretcher had been wiped clean. This is not

DSL34B

Memorandum to Mr. DeLoach
RE: ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY

true. The expert testified the bullet was clean when he received it and that no blood or tissue which would interfere with the firearms examination was present. (Volume III, pages 428 and 429). With regard to Weisberg further inquiry as to whether the bullet could be associated through residues with either the President's body or the Governor's body, there was, in fact, no blood or tissue on the bullet for such an examination when the evidence was received in the FBI Laboratory.

The bullets, one from Governor Connally's stretcher and the two bullet fragments from the front seat area of the limousine were identified with Oswald's rifle and were found to be physically the same as Western 6.5 mm Mannlicher-Carcano ammunition components. The other possible bullet fragments from the limousine, the President's head and the Governor's wrist, were only pieces of lead, similar in metallic composition to the lead core portion of Western 6.5 mm ammunition. These lead fragments and the lead smears on the windshield of the limousine and the lead residue found on the curbing at the scene, which the Commission thoroughly investigated, do not possess characteristic compositions or shapes which would permit their positive identification as fragments or smears of specific bullets.

In connection with the background of Weisberg himself, he was the subject of a separate memorandum, a copy of which is attached.

Weisberg's book has been reviewed. It is a 6" by 9" paperbound book, obviously cheaply prepared and its selling price is indicated as \$4.95. The book was copyrighted by Weisberg in 1965, and on the cover it states "The book that couldn't be printed." In this respect it is of importance to note in the preface Weisberg stated the book was offered to 63 United States book publishers during a 14-month period and of these 63 publishers, 21 had so little interest they declined even to read the book. In addition, 11 offers were made by Weisberg to publishers in 8 foreign countries, none of whom accepted his offer. In all Weisberg stated 103 offers of this book were made, not counting repeaters. He indicated following refusals of publishers to print his book he prepared a limited edition and copyrighted it in August, 1965.

DSL34B

CONTINUED - OVER

PLH ITEM # 941

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Memorandum to Mr. DeLoach
RE: ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY

In Weisberg's own words he says his book is more than an analysis of the investigation of the assassination of the late President. "It is a commentary of the freedom of the press, the underpinning of the democratic society, and a measure of the state of that society."

Following a review of this book it was determined it is nothing more than a vitriolic and diabolical criticism of the President's Commission and the FBI relating to the assassination of President Kennedy. He indicated the superficial and superficial nature of the report deals with the possibility of a conspiracy or of a different assassin is only one of the ways in which the Commission may have crippled itself. He contended it would have been better if the Commission had had its own staff of investigators and restricted the use of the FBI and Secret Service to technical services.

Weisberg indicated his book is an attempt to "analyse the report itself exclusively on the basis of the Commission's own information." It is noted that of the 13 chapters in this book he quotes the Commission's findings extensively but thereafter inserts his own comments and theories as to what should have been done. In every instance concerning all phases of the investigation and the findings, he was critical. In Chapter 9 where he discusses the witnesses and their treatment he stated they are always those people who suddenly see a chance to become important, to themselves, to those for whom they will testify, to their circle of friends and to the world at large. He also said that there are nervous people and neurotics inevitably there are those who have axes to grind, hatreds or dislikes to be indulged, and political objectives to be attained. From these comments it would appear that Weisberg is adequately describing himself.

Weisberg said in respect to the Commission's report, "What is most lacking in this report is analysis." He has delved into the scientific findings and arrived at his own conclusions without apparent background relating to scientific research.

Weisberg claimed the Commission's report was abundantly clear that it distorts and misrepresents the Commission's information on Oswald's politics. He claims when the Commission did this, "Can there be any reason for this except a desire to fool the public?" He also contended whenever possible the Commission's report infers inefficiency of the Federal bureaucracy.

DSL 3+B

MEMORANDUM to Mr. DeLoach
RE: ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY

Weisberg referred to the "Investigation of a Possible Conspiracy" involving Oswald. The Commission concluded there is no credible evidence that Lee Harvey Oswald was part of a conspiracy to assassinate President Kennedy. Weisberg said "On both counts the report is wrong. First, it had more than evidence of a conspiracy; it had irrefutable proof. Second, the Commission had highly credible evidence that Lee Harvey Oswald was, in fact, part of this conspiracy." Weisberg continues page after page in this particular vein of thinking. He criticized the Secret Service, the results of the autopsy examination and the bullet and fragments recovered, and the nature of the wounds of President Kennedy. It is quite obvious he has failed miserably in attempting to reconstruct the facts in their proper light.

In the author's conclusion he indicated in writing this book, the author has had but one purpose. That was to show that the job assigned and expected of the President's Commission on the assassination of John F. Kennedy has not been done. He then continues can the job really be done regardless of the consequences. Weisberg said, "Who can solve this crime?" Not the courts for there is no question which can be taken to court. Not the Commission, for it has already both failed and closed up, its work unfinished." Therefore he said "Only Congress remains."

Based on Weisberg's inadequate research he contends the President was shot from both front and back. "Nothing else makes sense. Nothing else is possible." He stated "There was not a single assassin, Oswald or any other. There was at least one conspiracy - to kill the President."

Weisberg referred to an FBI report he observed in the National Archives which was carefully prepared document and one of the initial reports furnished to the President's Commission which the Commission commended us for Weisberg described this report as "a tissue so thin and a polemic so undisguised that it would demean labors of a high police force investigating the purloining of a desiccated flounder." He further described this report as a "Neat, clean, colorful and optically attractive rendition of such tenuous content that a self-respecting undergraduate would hesitate to take it into an uncorrupted court."

DSL 34B

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CONTINUED - OVER

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PLH ITEM # 941

Memorandum to Mr. DeLoach
RE: ASSASSINATION OF PRESIDENT
JOHN FITZGERALD KENNEDY

It appears Weisberg, by publishing his book, is attempting to establish controversy and to expound his personal theories and deductions concerning the assassination investigation. This book is full of errors and inconsistencies and Weisberg has distorted the truth relating to the assassination investigation. Due to information contained in his book and Weisberg's background, the Bureau should not add dignity or credibility to him by answering his communication.

JRM

F. J.

True

445

DSL34B

PLH ITEM # 9

C.A. 78-0249
EXHIBIT 3

ARNOLD, FORTAS & PORTER
1200 EIGHTEENTH STREET, N. W.
WASHINGTON 6, D. C.

November 28, 1947

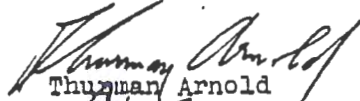
THURMAN ARNOLD
ABE FORTAS
PAUL A. PORTER
WALTON HAMILTON
MILTON V. FREEMAN
NORMAN DIAMOND
REED MILLER
W. H. HIGGINS

TELEPHONE
DISTRICT 3881

Dear Mr. Weisberg:

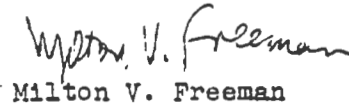
We want you to know how deeply we appreciate your kind and generous gesture in sending us a gift and the warm sentiments which accompanied it. You know it was a pleasure to be of service to you and your own calmness and dignity under the most adverse circumstances were in no small measure responsible for your ultimate vindication.

Sincerely,


Thurman Arnold


Abe Fortas


Paul A. Porter


Milton V. Freeman

Mr. Harold Weisberg
2322 N. Nottingham
Arlington, Virginia

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UNITED STATES GOVERNMENT

Memorandum

C.A-78-0249

EXHIBIT 4

TO : DIRECTOR, FBI
ATTENTION: CRIME RECORDS

DATE: 7/20/66

FROM : SAC, NEW YORK (66-3476)

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

- 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

On 7/13/66, PAUL NOBLE, Producer of the Alan Burke television show, seen on Saturday nights on WNEW-TV, telephonically advised that ALAN BURKE's guest for the 7/23/66 show would be HAROLD WEISBERG, the author of the book "White-wash." According to PAUL NOBLE, 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.

Mr. NOBLE 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

FJI:jaw
(3)

OCT 21 1966

7/21/66
REC-41

62-109060-4151

AUG 2 1966

DSL35

JUL 22 1966

5 AUG 9 1966

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

CRIME RESEARCH

PLH ITEM # 94

447

EX-100-75-1438

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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 TIBBETT, 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

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 denoted 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.

C.A. 78-0249
EXHIBIT 5

December 2, 1977

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

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

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

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

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

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

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Mr. Harold Weisberg

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

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

I hope the above is of assistance to you.

Sincerely yours,

Allen H. McCreight

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

Inventory Worksheet
FD-503 (2-18-77)

106-82555
File No: SECTION 3

Re: LEE HARVEY OSWALD

Date: JULY 1977
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
91 91A IN	11-23-63	(R. Aznarez, New Orleans) LETTER FROM CITIZEN	2	4 pp. (2 cc.) 2	NONE He wrote FBI about LHO in June; and what about Castro, H. Mathews, etc.
91 91B ENC	—	NEWSPAPER ARTICLE	1	1	NONE NOTP clip with LHO holding up his manacled hands
91 91C OUT	11-27-63	LETTER TO CITIZEN	1	1	NONE Thanks. Aznarez did furnish a FPCC handbill earlier **
92	—	(Don Maclean column, DC News) NEWSPAPER ARTICLE	2	2	NONE With JEH comments objecting to implied FBI laxity **
93	11-29-63	MEMO FROM HOOVER	2	2	NONE Call from Judge M. Kronheim re ACLU (unclear implications) *
94	11-22-63	BRENNAN TO SULLIVAN MEMO	1	1	NONE INS has LHO letter to Connally; ONI file is coming to DC
95	11-24-63	BELMONT TO TOLSON MEMO	2	2	NONE Conclusions on LHO; keeping Fritz off TV, etc. ***
96	11-24-63	BRENNAN TO SULLIVAN MEMO	1	[REDACTED]	
96B UNREC	11-24-63	NEW YORK TELETYPE	3	[REDACTED]	
96C UNREC	11-25-63	NEW YORK TELETYPE	3	[REDACTED]	
96D UNREC	11-26-63	EVANS TO BELMONT MEMO	2	2	NONE Katzebach suggestions re FBI report; JEH comments **
97	11-27-63	CIA RELEASE	1	[REDACTED]	

21 13

FBI/DOJ

hsh

Q.A. 78-0249
EXHIBIT 6

C.A-78-0249
EXHIBIT 8



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

April 12, 1978

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Enclosed are 2,581 pages of inventory worksheets utilized in the processing of files pertaining to the investigation into the Assassination of President John F. Kennedy. These pages are releasable under the provisions of the Freedom of Information Act (FOIA), Title 5, United States Code, Section 552. The deletions made in this material are based on one or more of the following subsections of Section 552:

- (b) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy;
- (b) (2) materials related solely to the internal rules and practices of the FBI;
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:
 - (C) constitute an unwarranted invasion of the personal privacy of another person;
 - (D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means;

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Harold Weisberg

Mr. Harold Weisberg

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

Pursuant to the decision of the Deputy Attorney General, Office of Privacy and Information Appeals by letter dated March 31, 1978, to your attorney, James H. Lesar, no fee is being charged for the duplication of these documents.

You have 30 days from receipt of this letter to appeal to the Deputy Attorney General from any denial contained herein. Appeals should be directed in writing to the Deputy Attorney General (Attention: Office of Privacy and Information Appeals), Washington, D. C. 20530. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

Sincerely yours,

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

Enclosures (7)

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C.A. 78-0249
EXHIBIT 9

Mr. Quinlan J. Shea
Director, FOIA/PA Appeals
Department of Justice
Washington, D.C. 20530

At. 12, Frederick, Md. 21701
5/19/78

Dear Quin,

This and the enclosure are intended as two appeals. Both relate to cases in court. Jim Lesar, who was already over-loaded, is further being from having had to represent John Ray for two days before the House assassins committee.

The enclosed correspondence with Mr. McGright relates to an item of the requests in C.A. 78-1996. I was told by the FBI that your office made a review on the merits of everything released to me in that case.

Also enclosed is a copy of Mr. McGright's letter of April 12. It was with the carton of worksheets that was provided. This letter makes no reference to the fact that the request is for more than just the worksheets or that a complaint was filed. You informed me that you would be monitoring compliance on that request.

The omissions as well as the exemptions claimed on the worksheets leave me no alternative to appeal. However, I make the appeal with the understanding that you may not be able to process it promptly and with the belief that if there is opportunity to discuss the situation much if not all may be worked out in a mutually satisfactory manner.

I am enclosing Mr. McGright with a carbon copy. I make use of this to save a letter and to thank him for the fact that the legibility of these worksheets seems to be better than that of any others within my experience and for binding them and labelling them so clearly with the files and the Sections they cover. This will be particularly helpful when the files are in the archive.

Last night I was able to make a spot check of the sheets covering the first few Sections of 02-109060, bound Sections 1-70. Among the questions raised immediately are these:

The removal of the names of the analysts, I presume under (b)(2). I believe that this fails to meet the standard "solely." I have much experience that it does not.

A number of referrals as a result of which no record was provided and no explanation of withholding was made. I believe this does not meet any standard and does not meet the requirement of the National Security Directive relating to referrals under E.O. 11652. It is my understanding that this requires action within 30 days, in the alternative, after 30 days processing by the referring agency as though the record were a record of the referring agency.

Records withheld in their entirety when "reasonably segregable" parts might be provided.

I have serious doubts about the applicability of (b)(7)(C), (D), and (E) to such records as worksheets in historical cases.

I noted one instance in which there was the word "referral" alone and another in which it was stricken through, no exemption claimed and no record provided.

And there is the fact that J. Edgar Hoover himself swore that the FBI's JFK investigation was not for law enforcement purposes. This was in his Commission testimony, Volume 5. You are familiar with the history of my C.A. 2301-70 in which a contrary claim was made by the Department and by the FBI.

There will probably be other questions when I have time to go over all but because this matter is now in court I believe all interests are best served by not delaying this. If your staff has any questions I am prepared to be as helpful as is possible.

Sincerely,

Harold Weisberg

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Dear Jim,

7/12/78

This relates to my appeal relating to the information relating to the processing and release of the Dallas Field Office records, C.A. 78-0249. If I have time I may add more relating to the underlying records, C.A. 78-0322.

Please excuse my not having your letter, I think of 7/7, before me to quote. I used it in one of several affidavits I had to prepare in a hurry to deliver to Jim yesterday. It is early in the morning and I do not want to awaken my wife to find where the originals of what I used as exhibits are located.

I appreciate the straightforwardness and informativeness of your letter. It also serves to illuminate the need I believe the Department has if it wants to comply with FOIA and also wants to reduce its ever-increasing costs.

In this affidavit (of the two I worked on) I show how by not making a good-faith search for the records actually asked for the FBI restricted your review to the worksheets and to deceive and mislead the Court provided a false affidavit by SA Herace P. Beckwith attesting that there are no other relevant records anywhere in the FBI. In fact I alleged SA Beckwith's affidavit is perjurious and sought to have the Court confront whether SA Beckwith, who has access to the FBI's records, and I, who do not, committed perjury. I did this by making the unequivocal statement that there are other relevant records. Believe me, if the Court does not duck the issue, I have the proof. There can be no doubt that any FOIA agent had to know other records exist and are relevant.

My appeal from the denial of these other relevant records is not just to make a debating point of to obtain what I do not need and want. There is scholarly purpose in my request for all the relevant records. I have no reluctance in letting the Department know some of what I believe is the FBI's reasons for not being truthful. It had already released some of the records on a grossly discriminatory basis to others. One of the results was a syndicated news story that amounts to official propaganda. To be more explicit, about a month before the first release there was a partial release. AP had the story and a friend of mine received the records. Among the reasons the FBI does not want this known are the false representations you heard made to Judge Geesall on 1/16/78.

I have other reasons for wanting what I asked for. My purpose here is limited to making the Department aware, as well as seeking to obtain the withheld information at least cost and trouble to the Department and to me.

Some of the withholding in the worksheets by classification is to hide what is embarrassing. There is a national security classification for what is in the public domain. The FBI has taken unorthodox steps to make the underlying record unavailable and again I have the proof.

I have as attachments to this affidavit several illustrations of classification of public knowledge. I did not tell the court all I know with regard to these records. I merely gave it the FBI's expurgated copy together with an unexpurgated copy and an explanation of the meaning of what the FBI had sought to withhold after the content was within the public domain and had been prior to the processing of the records. While I would hope that there might be higher Department officials who would care to know the meaning of the withholding as it relates to how the FBI investigated the assassination of the President my main purpose in providing this added information is so that the Department's classification review committee might for once escape being a rubber stamp for the FBI in its ongoing efforts to hide its past, however one may interpret that past.

So you can understand, a Legat flew to Dallas right after the President was killed with clandestine pictures and a tape of an intercepted conversation both alleged to be of Lee Harvey Oswald. Immediately FBI agents who knew Oswald made negative identification. In essence these are the withheld facts. I have known of this for years from my own sources. There came a time when for reasons that can be perceived there was a leak. The leak received extensive and negled attention, all pointing away from the FBI and to the CIA.

The other illustration is of an excision from a change of address card Lee Harvey Oswald sent The Worker. Actually the FBI has the original card and appears to have been shuffling it around once there was a Warren Commission. I provide the excised and unexcised copies.

To the Review committee the exemption claim may appear to be justified because it knows nothing of the subject matter. In reality the FBI regularly classifies and withholds what is within the public domain. These are but two examples. It is true with regard to other kinds of withholdings, as on techniques and methods and privacy.

I am appealing the names of the processing agents as well as the names of all the agents. There is no basis for the alleged fear the agents will be harassed. The Commission's countless pages of published unexcised records included all names and there was no harassment. True also of thousands of pages always available at the Archives. With regard to the processing agents I believe one of the reasons for the change in policy that causes the present withholding when this had not been the practice with me is to deter my pinpointing those not suited for this kind of work. I have done this.

If there ever had been any basis for withholding FBI names in the underlying records, as contemporaneously the Director, the Chief Justice, the Attorney General and the White House and the Bureau of the Budget held there was not, the passing of all those years has eliminated that. These names were not withheld in the first part of the underlying documents processed. Abruptly there came a point at which they were withheld. Now in

C.A. 75-1996 I put into the record a letter from Director Kelley saying that in most-probable cases the names of SAs are not to be withheld. The Bureau can provide this to you. It was written to Emory Brown, of Howell, N.J. In addition, you are aware of the Attorney General's statement of 5/5/77. It requires that these names not be withheld.

So with this I am asking for the replacing of all records from which the names of SAs were withheld.

The names are not unknown. Most if not all were published in facsimile in the Communist's 26 volumes and are available at the Archives. Those who have retired are for the most part listed in the directory of the association of former agents. In C.A. 75-1996 Judge Green ordered that the names not be withheld. In C.A. 77-0692, in a transcript I read just yesterday, Judge Gesell ridiculed the whole thing. The real reasons, where there may be any reason other than harassment and inflating FOIA statistics, is more likely to relate to what the FBI did and did not do. I know of some cases of significant factual error, if error is the correct word.

In the enclosure I forgot to tell I have an illustration of the needless withholding of a known name. I know because earlier the FBI had not withhold it. This is the kind of record from which in the past, and in many thousands of records, the names were not withheld.

If none of this were true, compare it with the FBI's practice with me - what it released months after my attempts to exercise my rights under PA. (When may I expect the rest of those still withhold records?)

In C.A. 75-1996 I had an extensive education in the futility of seeking to be cooperative with the FBI by informing it of withholdings and trying to work compliance out on an amicable basis. The FBI will not have this. It is determined to follow its own course, which includes all the withholding possible, not withholding that is either justified or required. So in this and other cases I am not going to provide many details to it in advance or on an informal basis. However, with this introduction, which is intended to let you know that I have proof, I am appealing the extraordinarily extensive withholdings from the Dallas Field Office files. I mean this to include both my and all JFK assassination and related information and PA information related to me. Entire files are being withheld.

I have gone over all the Dallas records that were provided. As I did this I indicated which ones I wanted copies of for a separate file so I could preserve what I received as I received it for the Archive at Wisconsin. When I can go over these copies I'll probably write you further. However, my review was for the purposes of my information request, not for litigation, as if I have further samples, they will be only samples. My purpose is not litigation. It is obtaining and using information.

Sincerely, Harold Weisberg

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C.A-78-0249
EXHIBIT 11

NR0375 3068254

NR AFD

DE HQ

JGMPOZ JAN 77

FM DIRECTOR (62-117290)

TO ALL SACS ROUTINE

PLEASE

HOUSE SELECT COMMITTEE ON ASSASSINATIONS

REFERENCE BUREAU TELETYPE NOVEMBER 24, 1976.

REFERENCED BUREAU TELETYPE SET FORTH THE FACT THAT THE HOUSE SELECT COMMITTEE ON ASSASSINATIONS (HSC) HAS BEEN APPOINTED BY THE NINETY-FOURTH CONGRESS TO INVESTIGATE THE DEATHS OF JOHN F. KENNEDY AND MARTIN LUTHER KING, JR.

IN CONNECTION WITH THE HSC INVESTIGATION THE UNITED STATES DEPARTMENT OF JUSTICE HAS INSTRUCTED THE BUREAU TO MAKE AVAILABLE TO ALL MEMBERS OF THE HSC STAFF A JUSTIFICATION, INCLUDING RECORDS OF THE JOHN F. KENNEDY ASSASSINATION AND MARTIN LUTHER KING, JR., ASSASSINATION AS WELL AS CLOSELY RELATED CASES.

IN ORDER TO PREPARE FOR THE HSC REVIEW, YOU ARE REQUESTED

89-43-9952

JAN 5 1977
FBI - DALLAS

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PAGE TWO (CP-11729) CLEAR

TO PREPARE AN INVENTORY OF ALL MATERIALS AVAILABLE IN YOUR OFFICE REGARDING THE CASES SET FORTH BELOW. IT IS NOTED THAT BUREAU TELETYPE DATED DECEMBER 9, 1970, TITLED "MARTIN LUTHER KING, JR.," BUREAU FILE 100-138670, YOU WERE REQUESTED TO INVENTORY ALL PERTINENT MATERIAL RELATIVE TO THE MARTIN LUTHER KING, JR., ASSASSINATION. IT IS, THEREFORE, NOT NECESSARY FOR FIELD OFFICES AND LEGATS TO REINVENTORY THAT MATERIAL AT THIS TIME.

FILES TO BE INCLUDED IN YOUR CURRENT INVENTORY ARE:

(1) THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

NOVEMBER 22, 1963

OO: DALLAS

BUREAU FILE 62-112860

(2) LEE HARVEY OSWALD

IS - R - CUBA

OO: DALLAS

BUREAU FILE 100-62555

(3) MARIA N. OSWALD

IS - I

SOPIC

BUREAU FILE 100-196732

(4) JACK RUBY

LEE HARVEY OSWALD - VICTIM

CIVIL RIGHTS

BUREAU FILE 44-24616

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PAGE THREE (CP-11729) CLEAR

(5) PRESIDENT'S COMMISSION ON THE ASSASSINATION OF
PRESIDENT KENNEDY (WARREN COMMISSION)

BUREAU FILE CP-109490

IN PREPARING FIELD OFFICE INVENTORIES FOR ALL MAIN
FILES RELATING TO ABOVE, THE FOLLOWING SPECIFIC ITEMS MUST
BE INCLUDED: (A) FIELD OFFICE FILE NUMBER, INCLUDING OFFICE
FILE NUMBER; (B) TITLE AND CHARACTER OF FILE; (C) VERY BRIEF
DESCRIPTION OF FILE CONTENTS, INCLUDING WHETHER IT CONTAINS
ANY TAPES, ELECTRONIC SURVEILLANCE LOGS AND/OR TRANSCRIPTS,
PHOTOGRAPHS, BULKY EXHIBITS AND ANY OTHER SIMILAR MATERIAL
WHICH IS IN ADDITION TO ROUTINE CORRESPONDENCE. IF ANY OF
THE ABOVE (TAPES, ETC.) IS NOTED, VERY BRIEFLY DESCRIBE.
INCLUDE STATEMENT DESCRIBING ALL SUBFILES RELATING TO THE
MAIN FILE; (D) ACCOUNT FOR SIZE/SCOPE OF FILE AND RELATED
MATTERS. FOR EXAMPLE, INDICATE NUMBERS OF SECTIONS AND
SERIES IN CASE OF LOGS/TRANSCRIPTS AND BULKY
EXHIBITS; ETC.

IT IS FURTHER NOTED THAT IN REFERENCED BUREAU TELETYPE
OF NOVEMBER 24, 1976, YOU WERE REMINDED OF THE FACT THAT
RECORDS AGS/OSI - EXPERTISE, INTELLIGENCE OR HISTORICAL

463

3 3
PAGE FOUR (62-117593) CLEAR

VALUE SUCH AS THE KENNEDY AND KING ASSASSINATION INVESTIGATIONS ARE EXCLUDED FROM OUR DESTRUCTION OF FILES AND RECORDS PROGRAM AND SHOULD NOT BE DESTROYED.

YOU ARE, THEREFORE, INSTRUCTED TO REPLY BY TELETYPE SETTING FORTH YOUR INVENTORY REGARDING THE ABOVE LISTED JOHN F. KENNEDY ASSASSINATION FILES. IN ADDITION, YOU ARE REQUESTED TO ADVISE US OF ANY MATERIAL RELATIVE TO THE MARTIN LUTHER KING, JR. ASSASSINATION (MURKIN) AND THE ABOVE LISTED FILES RELATED TO THE JOHN F. KENNEDY ASSASSINATION THAT MAY HAVE BEEN DESTROYED UNDER THE DESTRUCTION OF FILES AND RECORDS PROGRAM. ALSO, INCLUDE A LISTING OF SAID FILES. THE HANDLING OF THIS MATTER WILL BE UNDERTAKEN IMMEDIATELY AND GIVEN THE HIGHEST PRIORITY. ROUTE YOUR RESULTS ATTENTION GENERAL INVESTIGATIVE DIVISION, CIVIL RIGHTS SECTION, CONGRESSIONAL IDENTITY UNIT. ALL LEGATS ADVISED SEPARATELY.

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C.A-78-0249
EXHIBIT 12

FBI

Date: 1/7/77

Transmit the following in _____
(Type in plaintext or code)

TELETYPE

(Precedence)

563

FM DALLAS (89-43) (P)

TO DIRECTOR (62-117290) PRIORITY

BT

E F T O

ATTN: GENERAL INVESTIGATIVE DIVISION, CIVIL RIGHTS SECTION,
CONGRESSIONAL INQUIRY UNIT.

HOUSE SELECT COMMITTEE ON ASSASSINATIONS.

RE BUREAU TELETYPE TO ALL SACS, JANUARY 6, 1977.

RESULTS OF FILE INVENTORY, DALLAS DIVISION, AS FOLLOWS:

1. ASSASSINATION OF PRESIDENT JOHN FITZGERALD KENNEDY,
DALLAS, TEXAS, NOVEMBER 22, 1963, MISCELLANEOUS - INFORMATION
CONCERNING. OO: DALLAS, BUREAU FILE 62-109060. DALLAS FILE
89-43.

THE DALLAS OFFICE IS OFFICE OF ORIGIN IN CAPTIONED CASE.

THIS FILE CONSISTS OF 122 VOLUMES, INCLUDING NINE VOLUMES
OF NEWSPAPER CLIPPINGS. THE 122 VOLUMES CONTAIN 9930 SERIALS,
WITH MANY INDIVIDUAL SERIALS CONTAINING NUMEROUS PAGES. THE

1 - Dallas
UHS:bjw
(1)

bjw

89-43-9958

Special Agent in Charge

Sent

18308

M Per

[Signature]

GPO LITHO - 886-41

465

FBI

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Precedence)

DL 89-43 PAGE TWO

ABOVE VOLUMES ARE APPROXIMATELY 13 LINEAR FEET IN SIZE.
THIS FILE ALSO CONTAINS 301 EXHIBITS WITH MANY INDIVIDUAL
EXHIBITS CONTAINING NUMEROUS PHOTOGRAPHS AND OTHER DOCUMENTS.
THE EXHIBITS ARE APPROXIMATELY TWO LINEAR FEET IN SIZE.

2. LEE HARVEY OSWALD, AKA; INTERNAL SECURITY - RUSSIA -
CUBA. OO: DALLAS. BUREAU FILE 105-82555, DALLAS FILE 100-
10461.

THE DALLAS OFFICE IS OFFICE OF ORIGIN IN CAPTIONED CASE.

THIS FILE CONSISTS OF 105 VOLUMES, INCLUDING SIX VOLUMES
OF TRANSLATIONS, THREE VOLUMES OF INVENTORY WORKSHEETS, AND ONE
VOLUME OF OSWALD WRITINGS. THE 105 VOLUMES CONTAIN 9360
SERIALS, WITH MANY INDIVIDUAL SERIALS CONTAINING NUMEROUS
PAGES. THE ABOVE VOLUMES ARE APPROXIMATELY 13 LINEAR FEET IN
SIZE. THIS FILE ALSO CONTAINS 498 EXHIBITS, MANY INDIVIDUAL
EXHIBITS CONTAINING NUMEROUS PHOTOGRAPHS AND OTHER DOCUMENTS.
THESE EXHIBITS ARE APPROXIMATELY 2 1/2 LINEAR FEET IN SIZE.
IN ADDITION TO THE ABOVE EXHIBITS, ADDITIONAL BULKY EXHIBITS
CONTAINING NUMEROUS PHOTOGRAPHS AND OTHER DOCUMENTS AS WELL AS
COPIES OF WARREN COMMISSION EXHIBITS ARE LOCATED IN A SECURE
METAL CABINET WITH THE TOTAL VOLUME OF THESE EXHIBITS BEING

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

466

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Precedence)

DL 89-43 PAGE THREE

APPROXIMATELY 15 CUBIC FEET.

3. MARINA NIKOLAEVNA PORTER, AKA, MARINA OSWALD,
IS-R, OO: DALLAS, BUREAU FILE 105-126032, DALLAS FILE
105-1435.

THE DALLAS OFFICE IS OFFICE OF ORIGIN IN THIS CASE. THIS
FILE CONSISTS OF ONE VOLUME CONTAINING 182 SERIALS. THIS
FILE CONTAINS FOUR EXHIBITS IN THE SUB A SECTION.

4. JACK L. RUBY, AKA; LEE HARVEY OSWALD (DECEASED) -
VICTIM. CR. BUREAU FILE 44-24016, DALLAS FILE 44-1639.

THE DALLAS OFFICE CONDUCTED THE PRIMARY SUBSTANTIVE
INVESTIGATION IN CAPTIONED CASE. THIS FILE CONSISTS OF 94
VOLUMES, INCLUDING SEVEN VOLUMES OF NEWSPAPER CLIPPINGS.
THESE 94 VOLUMES CONTAIN 6455 SERIALS, WITH MANY INDIVIDUAL
SERIALS CONTAINING NUMEROUS PAGES. THE ABOVE VOLUMES ARE
APPROXIMATELY 11 LINEAR FEET IN SIZE. THIS FILE ALSO CONTAINS
186 EXHIBITS, WITH MANY INDIVIDUAL EXHIBITS CONTAINING NUMEROUS
PHOTOGRAPHS AND OTHER DOCUMENTS. THE EXHIBITS ARE APPROXIMATELY
FIVE LINEAR FEET IN SIZE.

5. THE PRESIDENTS COMMISSION ON THE ASSASSINATION OF

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

467

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Precedence)

DL 89-43 PAGE FOUR

PRESIDENT KENNEDY. BUREAU FILE 62-109090. DALLAS FILE
62-3588.

THE DALLAS OFFICE SUBMITTED ROUTINE COMMUNICATIONS.
A REVIEW OF THE 26 VOLUMES CONTAINING THE RESULTS OF HEARINGS
BEFORE THE PRESIDENTS COMMISSION IS SET FORTH IN THIS FILE.
THIS REVIEW WAS CONDUCTED BY SAS OF THE DALLAS OFFICE.

THIS FILE CONSISTS OF TWO VOLUMES CONTAINING 189 SERIALS.
THE ONLY EXHIBITS IN CONNECTION WITH THIS FILE ARE BOOKS
DEALING WITH THE PRESIDENTS COMMISSION AND TWO AFFIDAVITS
FROM SAS OF THE FBI.

[REDACTED]

b2
b7D
b7E

b2
b7D
b7E

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

468

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Precedence)

DL 89-43 PAGE FIVE

[REDACTED]

b7E

FOR THE ADDITIONAL INFORMATION OF THE BUREAU, THE DALLAS OFFICE HAS ESTABLISHED A SPECIAL JOHN F. KENNEDY ASSASSINATION FILES INDICES CONSISTING OF APPROXIMATELY 40 LINEAR FEET OF 3" BY 5" INDEX CARDS. THESE INDEX CARDS ARE MAINTAINED SEPARATE FROM THE GENERAL INDICES. ALSO ESTABLISHED WAS A SPECIAL COMMUNICATIONS INDEX IN THE EARLY MONTHS OF THE JFK ASSASSINATION INVESTIGATION CONSISTING OF APPROXIMATELY 24 LINEAR FEET OF 5" BY 8" INDEX CARDS WHICH ARE ALSO MAINTAINED SEPARATE FROM THE GENERAL INDICES.

NO KNOWN MATERIAL RELATIVE TO THE MARTIN LUTHER KING, JR. ASSASSINATION (MURKIN) AND THE ABOVE LISTED FILES RELATED TO THE JOHN F. KENNEDY ASSASSINATION HAVE BEEN DESTROYED UNDER THE DESTRUCTION OF FILES AND RECORDS PROGRAM.

BT

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

469

Information of OSWALD passed
to Mexican GOVT.

Document Number 103-42

for FOIA Review on APR 1976

RECORD COPY

25 NOV. 63

470

CLASSIFIED MESSAGE

ROUTING	
1	4
2	5
3	6

TO : DIRECTOR

FROM :

ACTION:

INFO :

XX

CS COPY

232048Z

IMMEDIATE DIR CITE

19
23 Nov 63 IN 67191

REF A. DIR 84888 *

B.

(IN 67189) **

1. SAW PHOTOS OF LEE OSWALD ON TELEVISION NIGHT OF 22 NOV AND IT
 OBVIOUS PHOTOS SENT TO DALLAS WERE NOT IDEN WITH DALLAS PHOTOS LEE OSWALD HELD
 DALLAS. DATES ARE AS GIVEN ON PHOTOS.

2. MEXICO REVIEWING ALL AVAILABLE PHOTOS

3. SILVIA DURAN WHO
 MEXICAN EMPLOYEE AT CUBAN EMBASSY

BE ARRESTED IMMEDIATELY AND HELD INCOMMUNICADO UNTIL SHE GIVES
 ALL DETAILS OF OSWALD KNOWN TO HER. (SEE REF B)

4.

Comments: *Photos sent from Mexico City were not those of Lee Oswald.

Document Number **56-20**

CS COPY

23 Nov 63

For FOIA Review on APR 1976

REPRODUCTION BY OTHER THAN THE ISSUING OFFICE IS PROHIBITED

Copy No.

471

CLASSIFIED MESSAGE

[Redacted]

ROUTING	
1	4
2	5
3	6

TO : DIRECTOR

CS COPY

FROM :

ACTION:

INFO :

232254Z

23 Nov 63 IN 67233

PRIORITY DIR CITE

IP

1. COMPLETE RECHECK PHOTOS

AGAINST GOOD PRESS PHOTOS SHOWS NO EVIDENCE

OSWALD VISIT.

NOTE ONLY VISIT WE KNOW HE MADE WAS CUBAN EMBASSY 28 SEPT, SATURDAY ON WHICH EMB CLOSED

2. CHECK MANIFEST ALL PLANES ARRIVING MEXI CENTRAL AIRPORT FROM U.S. FAILS SHOW OSWALD ARRIVAL UNDER ANY LIKELY VARIANT HIS NAME. PASSING THIS INFO GOM ASKING THEY CHECK BORDER AIRPORTS FROM WHICH OSWALD MIGHT HAVE FLOWN MEXICO CITY. WE DO NOT GET MANIFESTS THESE DOMESTIC FLIGHTS.

Document Number 59-23

for EOIA Review on APR 1976

23 Nov 63

[Redacted]

REPRODUCTION BY OTHER THAN THE ISSUING OFFICE IS PROHIBITED

Copy No.

472

6 Copies of photo of F Oswald
Reproduced for use of legal
Attache with Mexican police

Document Number 11-64
for ECIA Review on 76

He made fifty (50)
copies of each of these
(which we got from
Legal Attache) for Leg.
Attache to use with
Mexican Police -

RECORD COPY

473

CLASSIFIED MESSAGE

ORIG :
UNIT :
EXT :
DATE : 27 NOV. 1963

- INDEX
- NO INDEX
- FILE IN CS FILE NO.

1	4
2	5
3	6

12-62

ROUTING

27 Nov 63 20 12z

DEFERRED

ROUTINE

FLASH

TO :
FROM : DIRECTOR
CONF :
INFO :

CS COPY

TO : FLASH

CITE DIR 85318

RE: (IN-69048)

1. THIS INSTRUCTION HAS BEEN COORDINATED WITH AND
2. MEXICAN AUTHORITIES SHOULD INTERROGATE SILVIA DURAN TO EXTENT NECESSARY CLARIFY OUTSTANDING POINTS WHICH BEEN RAISED YOUR CABLES LAST 48 HOURS. YOU MAY PROVIDE QUESTIONS TO MEXICAN INTERROGATORS BUT WE DO NOT REPEAT NOT WANT ANY AMERICANS TO CONFRONT SILVIA DURAN OR BE IN CONTACT WITH HER.

Document Number 158-610
for FOIA Review on APR 1976

3. ADVISE ASAP RESULTS INTERROGATION.

(END OF MESSAGE)

Comment: Silvia Duran rearrested because she was attempting to leave Mexico for Cuba.

CS COPY

Richard Helms

RICHARD HELMS
RELEASING OFFICER

COORDINATING OFFICERS

[Redacted]

AUTHENTICATING OFFICER

REPRODUCTION BY OTHER THAN THE ISSUING OFFICE IS PROHIBITED.

Copy No.

474

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED

JAN 10 1979

.....
HAROLD WEISBERG,

Plaintiff,

v.

CLARENCE M. KELLEY, et al.,

Defendants.
.....

Civil Action No. 78-0249

AFFIDAVIT

My name is Harold Weisberg. I am the plaintiff in this instant cause. I reside at Route 12, Frederick, Maryland.

1. In this instant cause I seek all records relating to the processing and release of what was officially represented as all FBI Headquarters records relating to the assassination of President Kennedy and the official investigation of that crime.

2. On July 3 last, or a half year ago, without having complied with my request, the Department of Justice moved to dismiss this case or in the alternative for summary judgment.

3. I then informed this Court that my request had not been complied with and that the Department was aware that my request had not been complied with. The Court appears not to have believed me.

4. I have just obtained new confirmation that my information request had not been complied with and of the Department's knowledge that it had not been complied with at the time it filed its aforementioned Motion.

5. The FBI marked the sixth month that passed after its misrepresentation and attempt to deceive and mislead this Court by its unannounced sending to me of five large cartons of previously unprocessed and withheld relevant records. These five large cartons reached me on Friday, January 5, 1979, without explanation or covering letter. The covering letter, which reached me on Monday, January 8, was not written until the day I received the thousands of pages of records. The covering letter makes general claim to exemption covering these many thousands of pages.

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6. It is possible that buried somewhere in those thousands of pages, in some unidentified carton, there may be relevant worksheets. As of now I have no way of knowing. If there are such worksheets, they will not be all of the records sought in my request and they will not be all of the records relating to the processing and release of these particular records. In fact, some of the records from the files in question have been referred elsewhere, this long after the aforesaid Motion.

7. It is obvious that I could not have received all the records relating to the processing and release of these five cartons of records as of the time of the aforementioned Motion, or six months prior to their processing and release.

8. It also is obvious that the FBI knew it withheld these records, knew they had not been processed and released and knew they were relevant in this instant cause as well as in other cases, all at the time of the filing of the aforesaid Motion and at all times since then.

9. One of these other cases is now before the court of appeals, to which false representations had been made by the Department. I have prepared a detailed affidavit setting forth the facts for my counsel to present to the court of appeals. I attach a copy of that affidavit and its exhibits to this affidavit as Exhibit 1 and thereby incorporate its representations in this affidavit.

10. Two of three FBI letters attached to Exhibit 1 make it clear that I was to have received the entire Headquarters file and indicate that, in fact, I had received it. The third and most recent of these FBI letters blandly informs me that this was not the case and that the five additional cartons of previously withheld records referred to in Paragraph 5 above have now been processed and sent to me.

11. This FBI letter of Friday last does not state that I have been sent any records relating to the processing and release of the records contained in these five cartons.

12. From the time of its Motion until now, the Department has not provided any records relating to the processing and release of the files released in December 1977 and January 1978.

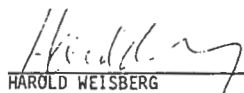
13. On the day I received these five cartons of previously withheld records, I also received from a friend copies of Department and FBI records provided to

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him. I have not been able to read all of the copies provided by my friend but I have skimmed them. They include records preliminary to the processing and release of these Headquarters records and thus are within my information request but have not been provided in this instant cause.


14. One of these records not provided under my information request refers to a request that contributed to the decision to process and release the Headquarters files as the biggest FOIA "mess" the FBI had ever made.

15. After the filing of the complaint in this instant cause, in another case I discovered unusual steps taken to hide embarrassing information held by Headquarters files. Thereafter I appealed the denial of this information that was consigned to an FBI memory hole. There has been no action on my appeal. No records relating to the decision to use these means to hide what can be embarrassing to avoid its disclosure have been provided to me.


HAROLD WEISBERG

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

My commission expires 7-1-82


NOTARY PUBLIC

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C.A. 78-0249
EXHIBIT 1

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Appellant,

v.

U.S. DEPARTMENT OF JUSTICE,

Appellee
.....

No. 78-1107

AFFIDAVIT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a conclusion that could not coexist with fact,

a conclusion given the superficial appearance of tenability by withholding information and by misrepresentations from the moment of the crime to this point in this instant cause in which the records sought, if provided, could enable a total destruction of the lone-nut preconception that controlled the investigation.

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

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

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

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

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

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

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

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

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

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

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

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


HAROLD WEISBERG

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

My commission expires 7-1-82

Diane J. Little
NOTARY PUBLIC

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sinister in that?

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

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

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

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

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

LARDNER: Are you causing a search for those?

REP. STOKES: No, we are not.

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

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

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

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

MORTON: Well, where is the conspiracy then?

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

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

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

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 5, 1979

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

Dear Mr. Weisberg:

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

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

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

- (b) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy;
- (b) (2) materials related solely to the internal rules and practices of the FBI;
- (b) (3) information specifically exempted from disclosure by statute;
- (b) (6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;



Mr. Harold Weisberg

- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:
- (C) constitute an unwarranted invasion of the personal privacy of another person;
 - (D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means;
 - (E) disclose investigative techniques and procedures, thereby impairing their future effectiveness.

Sincerely yours,

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

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 2, 1977

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

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

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

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

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

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

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Mr. Harold Weisberg

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

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

I hope the above is of assistance to you.

Sincerely yours,

Allen H. McCreight

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



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

JAN 18 1978

Subject of Request: JFK Assassination

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Requester:

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

Section 552

Section 552a

- | | | |
|---|---|----------------------------------|
| <input checked="" type="checkbox"/> (b) (1) | <input type="checkbox"/> (b) (7) (A) | <input type="checkbox"/> (d) (5) |
| <input checked="" type="checkbox"/> (b) (2) | <input type="checkbox"/> (b) (7) (B) | <input type="checkbox"/> (j) (2) |
| <input checked="" type="checkbox"/> (b) (3) | <input checked="" type="checkbox"/> (b) (7) (C) | <input type="checkbox"/> (k) (1) |
| <input type="checkbox"/> (b) (4) | <input checked="" type="checkbox"/> (b) (7) (D) | <input type="checkbox"/> (k) (2) |
| <input type="checkbox"/> (b) (5) | <input checked="" type="checkbox"/> (b) (7) (E) | <input type="checkbox"/> (k) (3) |
| <input checked="" type="checkbox"/> (b) (6) | <input type="checkbox"/> (b) (7) (F) | <input type="checkbox"/> (k) (4) |
| | <input type="checkbox"/> (b) (8) | <input type="checkbox"/> (k) (5) |
| | <input type="checkbox"/> (b) (9) | <input type="checkbox"/> (k) (6) |
| | | <input type="checkbox"/> (k) (7) |

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

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

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

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

See additional information on continuation page.

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

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 78-0249

CLARENCE M. KELLEY, ET AL.,

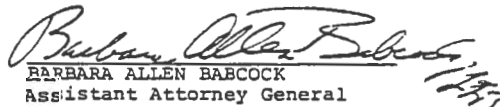
Defendants.

DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR AN ORDER REQUIRING
DEFENDANTS TO SUBMIT A DETAILED
INDEX PURSUANT TO VAUGHN V. ROSEN

In view of the Court's opinion of February 15, 1979,
and its order of March 29, 1979, plaintiff's motion is
inappropriate.

Wherefore, for the foregoing reasons, defendants
respectfully request that plaintiff's motion for an Order
Requiring Defendants to Submit a Detailed Index Pursuant
to Vaughn v. Rosen, be denied.

Respectfully submitted,


BARBARA ALLEN BABCOCK
Assistant Attorney General

EARL J. SILBERT
United States Attorney


LYNNE K. ZUSMAN


EMORY H. BAILEY

Attorneys, Department of Justice
10th & Pennsylvania Ave., N.W.
Washington, D.C. 20530

Tel. 724-7235

Attorneys for Defendants

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Mr. Harold Weisberg

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

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

January 16, 1978

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

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

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

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

Sincerely yours,

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



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FILED: MARCH 21, 1979

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....	:
HAROLD WEISBERG,	:
	:
Plaintiff,	:
	:
v.	:
	:
CIVIL ACTION No. 78-0249	:
	:
CLARENCE M. KELLEY, <u>et al.</u> ,	:
	:
Defendants	:
.....	:

MOTION TO VACATE COURT'S ORDER OF OCTOBER 25,
1978 AND TO SET A SCHEDULE FOR DISCOVERY

Comes now the plaintiff, Mr. Harold Weisberg, and moves the Court for an order vacating its Order of October 25, 1978, which granted Defendants' Motion for a Protective Order and barred plaintiff from taking the depositions of FBI Special Agents McCreight and Beckwith.

Plaintiff further moves the Court for an order setting forth a schedule for the completion of discovery in this case.

Respectfully submitted,

James H. Lesar

 JAMES H. LESAR
 910 16th Street, N.W., #600
 Washington, D.C. 20006
 Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of March, 1979 mailed a copy of the foregoing motion to Mr. Emory J. Bailey, Attorney, Civil Division, Commercial Litigation Branch, U.S. De-

500

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
: :
HAROLD WEISBERG, :
: :
Plaintiff, :
: :
v. : Civil Action No. 78-0249
: :
CLARENCE M. KELLEY, et al., :
: :
Defendants :
: :
.....

MEMORANDUM OF POINTS AND AUTHORITIES

By order dated October 25, 1978, this Court granted a motion for a protective order which defendants' made to prevent plaintiff from taking the depositions of FBI Special Agents Horace P. Beckwith and Allan H. McCreight. Thereafter, by order dated February 15, 1979, this Court granted summary judgment on behalf of defendants.

Subsequently, however, plaintiff filed a motion for reconsideration supported by three affidavits and numerous exhibits. Plaintiff's affidavits and exhibits make it quite plain that defendants' have filed untruthful, obfuscatory and misleading affidavits with this Court. For example, with respect to purportedly classified matters, the April 17, 1979 affidavit of Special Agent Horace P. Beckwith stated in its Paragraph (3) (a) that:

Title 5, United States Code, Section 552 (b) (1) exempts from disclosure information which is currently and properly classified pursuant to Executive Order 11652. This information contained in the inventory worksheets in the form of notations and short phrases is identical to information which is duly classified in the original documents. This information, if released, would identify foreign sources or sensitive procedures, thereby jeopardizing foreign policy and the national defense.

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The Beckwith affidavit thus gives the clear impression that certain "notations and short phrases" on the worksheets had already been classified in that form, as well as in the underlying "original documents." However, if the affidavit of Bradley Benson, is correct, this impression is entirely false, since Benson swears that the information on the worksheets was not classified until April 27, 1978, ten days after the date of the Beckwith affidavit.

The April 28, 1978 affidavit of David M. Lattin asserts:

(9) The affiant has reviewed the worksheets and has determined that the proper classification has been assigned and that they have been appropriately marked in accordance with EO 11652 and Sections (4) (A) and 28 C.F.R. 17.40, et seq.

The Lattin affidavit is deliberately worded so as to give the false impression that the information on the worksheets was properly classified in accordance with the procedures specified in E.O. 11652. But E.O. 11652 requires that classified material be classified at the time of origination! The Benson affidavit makes it clear, however, that classification did not result until months after origination of the worksheets!

It is apparent that each of the affidavits submitted by the defendants in this case was deliberately worded so as to conceal relevant information from plaintiff and the Court and to mislead the Court. The defendants' affidavits did have that effect. In its Opinion of February 15, 1979, this Court asserted that: "Here the FBI affidavits show that the documents are classified according to the proper procedural criteria and that they are correctly withheld under both Executive Orders 11652 and 12065." (Opinion, p. 2)

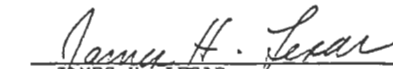
As a result of its reliance on the truthfulness and "good faith" of the FBI affidavits, this Court now finds itself in the embarrassing position of having suppressed innocuous information already released--the initials "R.C.M.P.," standing for "Royal

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Canadian Mounted Police"--under the guise that the national security of the United States will be jeopardized if this information is released to Weisberg.

It is evident from this example, as well as from the additional information which is found in the attached affidavit of James H. Lesar and its attachments, that plaintiff must be allowed to test the accuracy and veracity of the affiants used by the defendants. Not to permit plaintiff to undertake discovery after these affiants have been shown to have submitted false and misleading information to the Court would be to irretrievably tarnish the integrity and independence of the Court and to prohibit plaintiff from exercising his only means of countering the corrupt practices of the FBI.

Respectfully submitted,



JAMES H. LESAR
310 16th Street, N.W., #600
Washington, D.C. 20006
Phone: 223-5587

Attorney for Plaintiff

503

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
: :
: :
HAROLD WEISBERG, :
: :
Plaintiff, :
: :
v. : Civil Action No. 78-0249
: :
: :
CLARENCE M. KELLEY, et al., :
: :
Defendants :
: :
.....

AFFIDAVIT OF JAMES H. LESAR

I, James H. Lesar, first having been duly sworn, depose and say as follows:

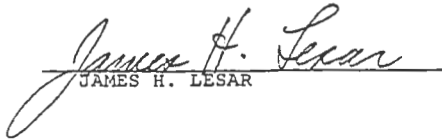
1. I represent the plaintiff, Mr. Harold Weisberg, in the above-entitled cause of action.
2. Mr. Weisberg recently provided me with copies of some documents he has obtained as a result of a FOIA request for records pertaining to a former FBI informant, Mr. Oliver Patterson.
3. In this case the FBI has excised certain information pertaining to informants on the grounds that it is exempt from disclosure under Exemption 2, which provides an exception for "matters that are "related solely to the internal personnel rules and practices of an agency." However, Attachment A, a copy of a signed agreement between Patterson and the FBI, contains Mr. Patterson's express declaration that: "I understand that I am not a Federal employee and will not represent myself as such." It is apparent from this and other records which Mr. Weisberg has obtained on Mr. Patterson that the FBI is in fact using Exemption 2 to conceal information pertaining to persons who are not FBI employees. (See Attachments A-E)

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4. In this case the FBI has invoked Exemption 7(D) allegedly to withhold the identity of confidential sources and the information supplied by them. The FBI considers state and local law enforcement agencies as "confidential sources" and sometimes withholds records which the FBI has obtained from them on the grounds that they are exempt under 7(D). For instance, in Lesar v. Department of Justice, Civil Action No. 77-0692, the government withheld records of the Atlanta and Memphis police departments en masse on the grounds that they are exempt under 7(D), even though some of these records had been made public previously by the FBI itself. This Court has accepted the government's position on this issue by declaring in its Opinion that 7(D) protects against the disclosure of any source, "whether it be an individual, an agency or a commercial or institutional source." (Opinion, p. 4)

5. The FBI is not uniform in its treatment of the records of state and local law enforcement agencies in its possession. Sometimes it does release these records without invoking Exemption 7(D). For example, the FBI has recently released two reports of the Columbia, Missouri Police Department which pertain to Mr. Patterson's arrest for public drunkenness. (See Attachment F)

6. Recent news accounts report that FBI Director William H. Webster has acknowledged in testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights that FBI agents used to list "phony informants" such as "the bartender, the taxi driver and everyone who said it looks like rain outside." (See Attachment G) This testimony gives rise to the possibility that the FBI's claims under Exemption 7(C) and/or 7(D) in this case might be based on "phony informants."


JAMES H. LESAR

505

WASHINGTON, D.C.

Subscribed and sworn to before me this 21st day of March,
1979, by James H. Lesar.



Justith A. Hartwell
NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

My commission expires July 31, 1979.

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(b)(2) 1A 40
(b)(7)(D) ~~1A 2~~

File No. 170 ~~170~~ 1A 9

Date Received 5/11/70

From OLIVER BURN PATTERSON JR.
(NAME OF CONTRIBUTOR)
10550 OLD HAWTHORNS PARKWAY
(ADDRESS OF CONTRIBUTOR)
BLACK STICK, MO.
(CITY AND STATE)

By SA S.F. JACOBSON
(NAME OF SPECIAL AGENT)

To Be Returned Yes No Receipt given Yes No

Description:

1 - STATEMENT OF COOPERATION OF O.B. PATTERSON

ATTACHMENT A

C. A. 78-0249

I, Oliver Block Patterson, have voluntarily agreed to cooperate with the Federal Bureau of Investigation in a matter affecting the security of the United States. I consider it a patriotic duty to so cooperate and agree to maintain this relationship in strict confidence. I understand that I am not a Federal employee and will not represent myself as such. I further agree not to make any disclosure or exploit in any way information which I may obtain or any activity in which I may engage on behalf of the Federal Bureau of Investigation, both while I am actively associated with the Federal Bureau of Investigation and thereafter, unless authorized to do so by the Bureau.

Oliver Patterson

WITNESSED:

Henry F. Jacobs, SA, FBI, ST. LOUIS, MO.
5/11/70

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/12/04 BY 1254 [signature]
WT

508

(b)(2), (b)(7)(D)

File No. 170-~~1~~ 1A42

Date Received 1-21-78

From Oliver Patterson
(NAME OF CONTRIBUTOR)

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

(NAME OF SPECIAL AGENT)

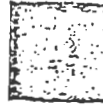
To Be Returned Yes No Receipt Given Yes No

Description:

*Handwritten letter
from Patterson dated
1-28-78.*

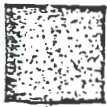
ATTACHMENT B

C.A. 78-0249



15
 32
 ST. LOUIS, MO 631
 PM
 30 JAN
 1978
 F.B.I.
 P.O. 7251
 MAIN STATION
 ST. LOUIS, MISSOURI
 63177

ATT:
 JIM HAGGERTY



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/14/78 BY 1257 GCF

12350 Old Hill, Ferry
St. Louis, Mo. 63033
January 28, 1978

Jim Heagy -
P.O. 7251
St. Louis, Mo.

Dear Jim -

As per our conversation at the restaurant the other morning (1/24/78) I have kind of changed my mind about whether or not I would be willing to talk to anybody about anything I might know.

I really don't feel that I could add anything that would really be earthshaking and for the hassle that might be involved - newspaper - etc. I really don't think it would be worth it.

If I can be kept out of it, I would certainly appreciate it.

Thanks
Alan Patterson
355-1500

511

Memorandum

TO : SAC, ST. LOUIS (170-~~5~~ A) P (b)(2), (b)(7)(D) DATE: 11/12/70

FROM : SA STANLEY P. JACOBSEN CI SI R (Prob)

SUBJECT: (b)(2), (b)(7)(D) PCI PSI R

Dates of Contact
11/8/70

File #s on which contacted (Use Titles when File #s not available or CI positive info.)
91-5279
105-1564

Purpose and results of contact

NEGATIVE Informant advised that in a conversation with J. B. STONER, the attorney for JOHN RAY, STONER indicated that he feels the U. S. Government has a very weak case against his client, JOHN RAY and that it is for this reason that the United States Attorney in St. Louis, Mo. had RAY indicted rather than go through the formality of a preliminary hearing.

STONER also advised the informant that plans are to have RAY remain in jail rather than make bond because his trial will then be scheduled sooner. STONER also indicated that there was considerable time which passed after RAY's arrest before he was able to make a telephone call, and the defense may bring this to the attention of the court at the trial.

Informant certified that he has furnished all information obtained by him since last contact.

Coverage
Minutemen/NSRP (b)(2) (1)

PERSONAL DATA
No Change

170-~~5~~ A-37
SEARCHED _____ INDEXED _____
SERIALIZED _____
NOV 12 1970
FBI - SAINT LOUIS

(b)(2) (b)(7)(D) ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/11/78 BY 259 JPP/llc

ATTACHMENT C C.A. 78-0249

Cover Sheet for Informant Report or Material FD-306 (Rev. 9-30-69)		Date prepared 4/26/71
Date received 4/23/71	Received from (name or symbol number) [redacted] (b)(2)(b)(7)(D)	Received by SA STANLEY P. JACOBSEN
Method of delivery (check appropriate blocks) <input checked="" type="checkbox"/> in person <input type="checkbox"/> by telephone <input type="checkbox"/> by mail <input type="checkbox"/> orally <input type="checkbox"/> recording device <input type="checkbox"/> written by informant		
If orally furnished and reduced to writing by Agent: Date _____		Date of Report 4/11/71
Dictated _____ to _____		Date(s) of activity 4/11/71
Transcribed _____		
Authenticated by informant _____		
Brief description of activity or material <i>Ch. [redacted] - [redacted] - [redacted]</i> <i>will be [redacted] [redacted]</i>		(b)(2), (b)(7)(D) File when original is located if not filed
* INDIVIDUALS DESIGNATED BY AN ASTERISK (*) ONLY ATTENDED A MEETING AND DID NOT ACTIVELY PARTICIPATE IN VIOLENCE OR REVOLUTIONARY ACTIVITIES WERE NOT DISCUSSED. <input type="checkbox"/> Information recorded on a card index by _____ on date _____		
Remarks: (b)(2), (b)(7)(D) ① 170- [redacted] - 93 1- 105- 1564 (NSAP)		
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 11/17/00 BY 1259		
ATTACHMENT D C.A. 78-0249		Block Stamp (b)(2) (b)(7)(D) 170- [redacted] - P- SEARCHED _____ INDEXED _____ APR 23 1971 FBI - SAINT LOUIS

513

April 11, 1971
St. Louis, Missouri

Tonight OLIVER PATTERSON called JERRY RAY in St. Louis at 645-4571 (JERRY RAY'S sister in Maplewood, Missouri). PATTERSON & RAY talked about the trial and PATTERSON told RAY that if RAY needed anything to get in touch with PATTERSON or if anything came up, for RAY to contact PATTERSON. Talked about the weather and the conversation ended

f. h. k.

514

File No. 170 - (b)(2), (b)(7)(D) A-1A36

Date Received _____

From _____ (NAME OF CONTRIBUTOR) (b)(2), (b)(7)(D)

ADDRESS OF CONTRIBUTOR _____

CITY AND STATE _____

By SA S. P. JACOBS (NAME OF SPECIAL AGENT)

To Be Returned Yes No

Receipt given Yes No

Description:

12 PHOTOGRAPHS
TAKEN BY SLIYNSKA
AT NSRP FACILITY,
DUNTONVILLE, ANK.,
5/30/71

ATTACHMENT B C.A. 78-0079

(b)(2) 1A39
(b)(7)(D) ~~FEI~~

File No. 170
Date Received 2-20-70
From Kansas City
(NAME OF CONTRIBUTOR)
(ADDRESS OF CONTRIBUTOR)
(CITY AND STATE)
By macl
(NAME OF SPECIAL AGENT)

To Be Returned Yes No
Receipt given Yes No

Description:
*one copy each of
Columbia Police Dept.
Report # 433 34 4334*

ATTACHMENT F

C.A. 73-0249

4334

DEPARTMENT OF POLICE
COLUMBIA, MISSOURI

File No. 164050
(Not to be filled in)

RECORD OF { ARREST SUMMONS

Name Patterson Jr. Oliver Brock Address 16 High Acres Dr. Milledgeville, Mo.

Offense Warrant for assault Officer (s) [redacted]

Place 2027 S. 21st St. Ozark, Mo. Date 2-14-68 Time 8:15 PM

Desk Sgt. [redacted] Date Committed 2-14-68 Summons: To Appear _____

Bond (amt.) _____ To Appear _____ Social Security No. _____

Occupation _____ Date and Place of birth 1-8-44

Race W Sex M Age 24 Hgt. 6' Wgt. 115 Hair Black Eyes Blue Comp blk Build Heavy

Drivers' License No. _____ Make and Model of Car _____ Lic. No. _____

WITNESSES:

Name _____ Address _____ Phone No. _____

DETAILS (Report all facts in logical sequence) Complaint No. _____
(If additional space is needed use Continuation Report)

The above named person was arrested for being drunk in public view and refused to give his name or any other information. When stopping above identification or service selection card was issued. ~~at the~~ Columbia Police Dept. had a warrant for assault for subject for assault on one Cliff Esten from County of Boone & signed by Clerk of said Court. Warrant was taken back to city jail & this officer called subjects name & he answered to it & warrant was read to him.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 11/2/74 BY 125709 P/dk

Radio Message No. _____ To _____ Time _____

Court Disposition: Date 2/15/68 Fine \$ _____ Paid _____ Days _____

Stayed _____ Committed _____ Served _____ Pd. \$ _____ Released _____

Plea of Not Guilty _____ Hearing _____ Bond (amt) _____ Cont'd. _____

Other disposition TOTL

577

Name William S. C. Diver (last) (first) (middle) Diver Address 1027 South Park Ave
 Offense Drunken and Public View Officer [Redacted]
 Place 1027 South Park Ave Date 2-14-68 Time 8:15 PM
 Desk [Redacted] Date Committed 2-14-68 Summons: To Appear _____
 Bond (amt.) _____ To Appear _____ Social Security No. _____
 Occupation _____ Date and Place of birth 1-8-44
 Race W Sex M Age 24 Hgt. 6' Wgt. 210 Hair Brown Eyes Blue Comp. 170-D Build Heavy
 Drivers' License No. _____ Make and Model of Car _____ Lic. No. _____
 WITNESSES:

Name _____ Address _____ Phone No. _____

DETAILS (Report all facts in logical sequence) Complaint No. _____
 (If additional space is needed use Continuation Report)

Officer received call from station that they had a person at 1400 Porter who had been asked to leave several times & that he refused to leave & had been drinking. Officer [Redacted] turned & traveled south on Porter & manager of apartment houses on South Park told officer that person walking down street was one who had been at 1400 Porter. This officer then proceeded along subject & as I approached could see subject stagger. He called [Redacted] subject to get in patrol car which he did & when asked why he was at 1400 Porter he stated he had been there. Subject eyes were bloodshot & breath smelled strongly of intoxicating liquor & his attitude was very illigient also was carrying beer in a brown sack. Subject was informed he was under arrest for being drunk on public view & brought to station by officer.

Radio Message No. _____ Date _____ Time _____
 Court Disposition: Date 2/15/68 Fine \$ _____ Paid _____ Days _____
 Stayed _____ Committed _____ Served _____ Pd. \$ _____ Released _____
 Plea of Not Guilty _____ Hearing _____ Bond (amt.) _____ Cont'd. _____
 Other disposition HEARD STATE

INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/12/79 BY 1259 D.P./H

FBI Spurns Hill Audit on Informants

By Robert Pear

Washington Star Staff Writer

FBI Director William H. Webster has rebuffed an attempt by Congress to investigate the FBI's confidential informant program.

His action is the latest example of a recurrent problem — executive branch agencies refusing to let the General Accounting Office examine their files.

Because of such disputes, some members of Congress now favor giving subpoena powers or a judicially enforceable right of access to GAO, an investigative arm of Congress.

The GAO wanted to ask such questions as: How valuable are the FBI's informants? How does the FBI know there is a real person corresponding to each informant's name listed in the files? How does the FBI control money paid to informants? How does the FBI know its informants don't instigate or participate in crimes?

The GAO did not want to see the names of informants, agreeing that the FBI could delete the names from any records turned over to GAO auditors.

BUT WEBSTER feared that the perception of outsiders having access to the information could be as damaging as actual disclosure of informants' identities.

"My considered opinion is that the FBI cannot allow any informant review or audit which would lend the impression of any type of access to the information in informant files," Webster wrote to Comptroller General Elmer B. Staats, head of the GAO.

"The FBI must protect this confidential relationship to maintain credibility with those persons whose assistance is vital to our investigative mission," the FBI director said.

Webster, appearing before a congressional committee last week, called the informant "the single most important investigative tool available to law enforcement."

Negotiations for a GAO audit of the controversial informant program are at an "impasse," Staats said.

The audit was requested by the House Judiciary subcommittee on civil and constitutional rights, headed by Rep. Don Edwards, D-Calif.

AT ABOUT the same time, reports began to surface suggesting that FBI agents, under pressure from headquarters, had fabricated informants and pocketed cash payments earmarked for the nonexistent informants.

Webster acknowledged that FBI agents used to list "phony informants" such as "the bartender, the taxi driver and everyone who said it looks like rain outside."

But he said, "We've applied a professional ax to that type of informant collection." As a result, the number of informants has dropped dramatically — from 11,000 in 1976 to about 2,800.

Webster said there are about 1,000 informants in organized crime, 1,500 in general crimes and 42 in domestic security cases, compared with several thousand in the last category a few years ago.

Edwards, a former FBI agent, complained that Webster's refusal to cooperate with the General Accounting Office was seriously hindering Congress.

The congressman said he was particularly disturbed by recent allegations that the FBI, when it was supposed to be giving GAO investigators a random selection of records for a previous audit, had actually manipulated the files, suppressing those that would really create problems for the FBI.

Staats and other GAO officials maintain that "our statutory authority clearly provides for us to have access to FBI files and documents." Edwards agrees. But FBI and Justice Department officials dispute the GAO's claim in some cases.

A 1976 agreement signed by Staats and former FBI Director Clarence Kelley gave the GAO regular access to FBI files for the first time. However, there were many limitations.

ATTACHMENT 6

C. A. 78-0249

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FILED: MARCH 22, 1979

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 78-0249

CLARENCE M. KELLEY, ET AL.,

Defendants.

DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR RECONSIDERATION
AND CLARIFICATION

Plaintiff has submitted a rather disjointed and sometimes incoherent motion asking, inter alia, that the Court make certain "findings of fact". Plaintiff cites Schwartz v. Internal Revenue Service, 511 F.2d 1303 (1975), as authority for his request. Plaintiff sets forth certain allegations that he desires the Court to hold as "findings of fact".

Defendants submit that Rule 52(a) of the Federal Rules of Civil Procedure make "findings of fact" unnecessary when a decision is made on a motion pursuant to Rules 12 or 56. Indeed, Schwartz, does not stand for the proposition that "findings of fact" should be made in matters such as the instant one. Schwartz should not be given a broad application, it should be limited to the situation that existed in that particular case. In Schwartz the Court's one page order did not adequately explain its conclusions of law; but in the instant matter the Court has set forth in some detail the bases for its conclusions.

Furthermore, the Court in Schwartz does not direct the District Court to make findings of fact, the Court stated:

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. . . it would appear advisable to require the District Courts to explicitly state the legal basis for finding documents exempt from disclosure under the FOIA,

Defendants submit that the Court has explicitly stated the legal bases for granting defendants summary judgment.

It is important to note that the Court in Schwartz did not state that clarification was necessary in every FOIA case, but only in those instances where circumstances so dictate. As the Court stated:

More importantly, Rule 52(a) simply removes the obligation to make "findings of fact and conclusions of law" in the unexceptional case; it in no way prohibits greater elaboration should the circumstances require it.

The present circumstances do not require further elaboration since the Court has already detailed the bases of its conclusions of law.

The issues presented by this Freedom of Information Act ("FOIA") lawsuit have been the subject of intense scrutiny, extensive discussion, and elaborate documentation by all parties to the suit and by the Court.

The record reflects that over the course of this litigation the Government filed several detailed affidavits in support of its legal justifications for withholding information under the FOIA. Plaintiff, in turn, filed several affidavits through which plaintiff sought to challenge defendant's legal positions. Finally, these issues were exhaustively discussed and probed by counsel and the Court during oral argument.

It is clear that the Court had before it in this action an extraordinary wealth of information and that it undertook great pains to consider all available information

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in reaching its well-reasoned decision. Now, plaintiff seeks through a motion for "reconsideration and clarification," as accompanied by yet another "supporting affidavit" and related documentation, to once again litigate the issues which have been amply reviewed and decided.

In response, defendant can only observe that the matters contained in plaintiff's motion are at the same time both stale and well past due -- there is nothing contained therein which either has not been raised, addressed, and considered by the Court or which could not have been presented during the vigorous litigation prior to final adjudication. Defendant considers the Court's decision in this case to be both well-supported by the record and well-supported on its face. Certainly, nothing in plaintiff's motion or supporting materials compels persuasively to the contrary.

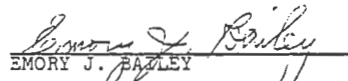
For the above reasons, defendant respectfully requests that plaintiff's motion for reconsideration and clarification be denied.

Respectfully submitted,


BARBARA ALLEN BABCOCK
Assistant Attorney General

EARL J. SILBERT
United States Attorney


LYNNE K. ZUSMAN


EMORY J. BAILEY

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10th & Pennsylvania Ave., N.W.
Washington, D.C. 20530
Telephone: 724-7235

Attorneys for Defendants

FILED: MARCH 22, 1979

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED

MAR 22 1979

JAMES F. DAVEY, Clerk

HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 78-0249

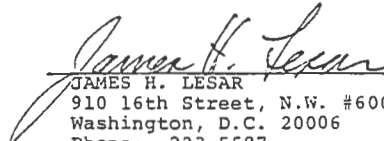
CLARENCE M. KELLEY, et al.,

Defendants

MOTION UNDER VAUGHN V. ROSEN TO REQUIRE DETAILED
JUSTIFICATION, ITEMIZATION AND INDEXING

Comes now the plaintiff, Mr. Harold Weisberg, and moves the Court for an order requiring defendants to provide within 30 days a detailed justification for any allegations that records sought by plaintiff, or portions thereof, are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. §552, as amended, including an itemized index of the records, or portions thereof, which are claimed to be exempt, correlating specific statements in such justification with actual portions of the requested documents. This motion is made pursuant to Vaughn v. Rosen, 484 F. 2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

Respectfully submitted,


JAMES H. LESAR
910 16th Street, N.W. #600
Washington, D.C. 20006
Phone: 223-5587

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 78-0249
 :
 :
 CLARENCE M. KELLEY, et al., :
 :
 Defendants :
 :
.....

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff seeks by this motion to compel the defendants to provide him and this Court with a detailed and specific justification, itemization, and indexing of all documents, or portions thereof, which are within the scope of his FOIA request but which have not been given to him. This is required by law. Vaughn v. Rosen, 484 F. 2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). See Ash Grove Cement Co. v. FTC, 5111 F. 2d 815 (D.C.Cir. 1975); Pacific Architects & Engineers, Inc. v. Renegotiation Board, 505 F. 2d 383 (D.C.Cir. 1974); Cuneo v. Schlesinger, 484 F. 2d 1086 (D.C.Cir. 1973), cert. denied sub nom. Rosen v. Vaughn, 415 U.S. 977 (1974).

The Freedom of Information Act provides for de novo review by the district court of agency claims that requested information is nondisclosable. Moreover, the burden of proof rests on the government. The government cannot meet this burden merely by filing conclusory allegations that the materials sought are exempt. Rather, as the Court of Appeals has stated, this requires a thorough and specific justification for the withholding of requested records:

. . . the Vaughn and Cuneo decisions mandate more than mere indexing of allegedly exempt documents. They contemplate a procedure whereby

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the agency resisting disclosure must present a "detailed justification" . . . for application of the exemption to the specific documents in dispute. Pacific Architects & Engineers, Inc. v. Renegotiation Board, supra, 505 F. 2d at 385 (citation omitted).

Vaughn recognized that "it is anomalous but obviously inevitable that the party with the greatest interest in obtaining disclosure is at a loss to argue with desirable legal precision for the revelation of the concealed information 484 F. 2d at 823-824. To avoid shifting the burden of proof from the agency to the plaintiff, the Vaughn court mandated a procedure which allows the lawsuit to proceed efficiently in the traditional adversary manner.

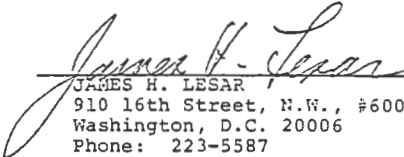
The need to use the Vaughn procedure in order to properly resolve the issues present in the instant case has become especially apparent since the government filed the affidavit of Bradley Benson and since plaintiff has filed the affidavits and exhibits which he attached to his motions for reconsideration and to vacate this Court's order of October 25, 1978 and set a schedule for discovery. In the first place, it now cannot be denied that there are records which are plainly within the scope of plaintiff's request which the defendants have not provided him. Secondly, plaintiff has demonstrated that the affidavits which the defendants have submitted to the Court are obfuscatory, misleading, and untrue.

Plaintiff has shown this most thoroughly with respect to the defendants' Exemption 1 claims, where it is now apparent that the purportedly classified information which has been withheld from him was not classified at the time of origination as required by Executive Order 11652. Other records have been withheld under other claims of exemption. However, these claims also require

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that the government make specific factual showings. For example, defendants' reliance on Exemption 7(D) requires detailed proof of a number of points with respect to records which are claimed to fall within this exemption: (1) that disclosure would disclose the identity of a confidential source; (2) that the source is in fact a confidential source; and (3) if defendants allege that the record was compiled in the course of a criminal investigation or a lawful national security intelligence investigation, (a) that there was an actual criminal investigation or lawful national security intelligence investigation in progress; (b) that the information in the record is in fact confidential; (c) that such confidential information was furnished only by a confidential source; and (d) that the source was in fact a confidential source. A Vaughn showing is necessary if the government is to meet its burden on these point, especially since its affidavits have now been discredited. Such information is also essential if plaintiff is to have any opportunity to effectively subject the government's claims to adversarial testing.

Respectfully submitted,


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Phone: 223-5587

Attorney for Plaintiff

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FILED: MARCH 26, 1979

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,
Plaintiff,

v.

Civil Action No. 78-0249

CLARENCE M. KELLEY, et al.,
Defendants
.....

REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR RECONSIDERATION AND CLARIFICATION

On February 26, 1979, Plaintiff filed a motion for reconsideration and clarification of the Court's February 15, 1979 Order granting defendants' summary judgment in this case. This motion was accompanied by three affidavits by Mr. Harold Weisberg, which showed, inter alia, that: (A) plaintiff has not been provided with at least two other sets of worksheets which vary from the one which has provided to him and which are undeniably within the scope of his request; (B) affidavits submitted by the FBI in this case concealed from plaintiff and the Court the fact that the worksheets were not classified at the time of origination as required by executive order; and (C) information on the worksheets which was excised because it is allegedly classified has already been made public.

Although defendants sought an extension of time to respond to plaintiff's motion, purportedly so their counsel could meet with representatives of the FBI "to discuss the appropriate response to plaintiff's motion," defendants' Opposition makes no attempt whatsoever to deny or otherwise respond to the specific charges made my plaintiff.

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Not to respond to the specific charges made by plaintiff betrays a contempt for the independence and integrity of this Court. Apparently defendants assume that this Court will rubber-stamp its assertions regardless of whether they are true or false.

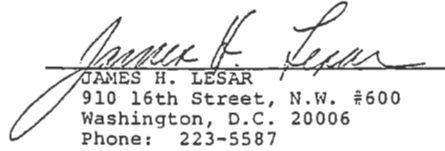
Plaintiff has advised his counsel by phone that subsequent to the filing of his motion for reconsideration he has discovered additional materials which show the falsity of the FBI's affidavits. Because he presently has other obligations which must be met, plaintiff would request a period of thirty days within which to submit this material to the Court in proper form.

In light of the government's refusal to come clean before this Court and address the specific factual allegations made by plaintiff, plaintiff strongly urges the Court to lift its ban on discovery in this case. Not to do so is to reward the defendants for having concealed relevant information from the Court and for submitting false and misleading affidavits. Plaintiff has requested this by separate motion. The failure of defendants to respond forthrightly to plaintiff's specific allegations makes discovery all the more necessary.

Finally, plaintiff notes that in their Opposition the defendants' do not contend that plaintiff's motion for reconsideration does not qualify under Rules 52(b) and 59 of the Federal Rules of Civil Procedure. Rather the Opposition devotes virtually all of its discussion to Schwartz v. Internal Revenue Service, 511 F. 2d 1303 (1975), which was but one of the bases for plaintiff's motion. Moreover, Schwartz is applicable to the present circumstances. Plaintiff has now shown the facts to be other than the FBI led this Court to believe they were. This necessary^{ly} requires that this Court amend both its findings of fact and the legal conclusions derived from them.

For the reasons stated above, the Court should vacate its previous summary judgment award in this case and, after allowing plaintiff a suitable period of time within which to conduct discovery, it should also amend its findings of facts and conclusions of law as specified in plaintiff's motion.

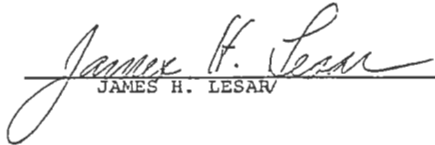
Respectfully submitted,


JAMES H. LESAR
910 16th Street, N.W. #600
Washington, D.C. 20006
Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of March, 1979, mailed a copy of the foregoing Reply to Defendants' Opposition to Plaintiff's Motion for Reconsideration and Clarification to Mr. Emory J. Bailey, Attorney, Civil Division, Commercial Litigation Section, U.S. Department of Justice, Washington, D.C. 20530.


JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

v

CLARENCE M. KELLEY, et al.,

Defendants

Civil Action

No. 78-249

FILED

MAR 23 1979

JAMES F. DAVEY, Clerk

ORDER

Upon consideration of plaintiff's "motion for Reconsideration and Clarification Pursuant to Rules 52(b) and 59 of the Federal Rules of Civil Procedure" to reconsider, alter and amend the Order entered in this case on February 16, 1979 granting defendants summary judgment, memorandum in support thereof and in opposition thereto, of the entire record herein, and it appearing to the Court that the denial of plaintiff's motion would be just and proper, it is by the Court this ~~29~~²⁹ day of March 1979

ORDERED that plaintiff's motion be, and hereby is denied; and it is further

ORDERED that plaintiff's motion to vacate the protective order entered on October 25, 1978 and set a schedule for discovery is moot in light of the denial of the motion for reconsideration.


United States District Judge

(M)

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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

HAROLD WEISBERG,
Plaintiff,

v.

Civil Action No. 78-0249


CLARENCE M. KELLEY, ET AL.,
Defendants.

DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR AN ORDER REQUIRING
DEFENDANTS TO SUBMIT A DETAILED
INDEX PURSUANT TO VAUGHN V. ROSEN

In view of the Court's opinion of February 15, 1979,
and its order of March 29, 1979, plaintiff's motion is
inappropriate.

Wherefore, for the foregoing reasons, defendants
respectfully request that plaintiff's motion for an Order
Requiring Defendants to Submit a Detailed Index Pursuant
to Vaughn v. Rosen, be denied.

Respectfully submitted,


BARBARA ALLEN BABCOCK
Assistant Attorney General

EARL J. SILBERT
United States Attorney


LYNNE K. ZUSMAN


EMORY H. BAILEY

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Tel. 724-7235

Attorneys for Defendants

