

AFFIDAVIT

My name is Harold Weisberg. I am 74 years old, reside at 7627 Old Receiver Road,, Frederick, Maryland, and am a former reporter, investigative reporter, Senate investigator and editor and government intelligence analyst. I am the author of seven books on the investigations of the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr. I am alone among those known as "critics" of these investigations in not being a conspiracy theorist. Mine is a study of how our basic institutions worked in those times of great stress and since then. *A2 In this study*
~~Exhaustive~~ I have engaged in extensive litigation under the Freedom of Information Act (FOIA), mostly for the relevant records of the Department of Justice, particularly the FBI. In the course of this litigation, for well over a decade, I have filed numerous lengthy ~~and~~ *and extensively documented* detailed affidavits and have given live testimony and been cross examined, ~~both~~ subject to the penalties of perjury, and no single error has been shown in this great volume of attestations. Similarly, I have received about 15,000 letters from strangers about my writing and extensive public speaking, including on radio and TV, and not a single person has written to allege that I treated him or the related facts and evidence unfairly. I know of no significant error in this ~~great~~ *large* body of work. *Insert Map 3*

4. Beginning with the approximately 300 cubic feet of Warren Commission records, most of which are FBI records, and continuing through the hundreds of thousands of pages of such records disclosed to me in my litigation, as well as thousands of pages of FBI records disclosed to other litigants, I have made what I believe may well be and probably is the largest ~~single private~~ *records and* study of the FBI and its records keeping made by any private person.

5. I state, without qualification, that in all this litigation, mine and the other FOIA cases with which I am familiar, it has been the practise of the FBI and the Department to deceive, mislead, harass and overburden the courts and the litigants. Unlike ~~other~~ *some* FOIA litigation, this subject is ~~one~~ fraught with the possibility of ~~great~~ *established* embarrassment to the FBI and the Department, as the record shows clearly and

3. I have read and herein address the June 2, 1987 declaration of FBI SA David R. Lieberman, based on the personal knowledge and personal experience I set forth above and below.

(Exhibit 1. I do not attach all the records I refer to because my health and mobility are severely impaired and searching is sometimes difficult and painful and can be

dangerous for me because most of my records are in my basement and stairs ~~can be~~ ^{are} a real problem and a danger for me. However, if the Court would like copies of records

~~I~~ do not attach I will undertake to provide them. What I attach is copies of records ^{already} ~~I have~~ ^{at} on my desk for other purposes.)

without question. ⁴⁶ FBI records disclosed to me as a result of C.A. 77-2155 are explicit in stating that before ~~the~~ ^{the FBI's} investigation of the assassination of President Kennedy had begun, even before President Johnson asked the FBI to conduct ~~the~~ such an investigation, Director Hoover ^{decided that} ~~stating that he lacked the authority~~ for

Lee Harvey Oswald was the lone assassin. Director Hoover also stated that he moved into this investigation knowing he had no authority to do so. FBI records disclosed to me in C.A. 78-0322 (since combined with C.A. 78-0420) reveal that the Dallas FBI ^{later} field office, the major ^{field} office in that investigation, known as the "Office of Origin," decided even before Oswald had been charged, and before any investigation could be made, the very afternoon of that crime, that he was the lone assassin. Records that should have been provided in the ^{inst 2-1 P7} ¹ ^(FBIHQ) ^{above-} previously cited litigation but were withheld by the FBI, include instructions of only a few days later to all field offices directing them explicitly not to investigate the crime itself. &

8. This record could not properly be withheld under any FOIA exemption but ^{was and remains} ^{by both field offices} it was nonetheless withheld. ~~xxxxxxx copy~~ The directive was sent to and filed by each and every one of the FBI's field offices. The copy I have is from the Little Rock field office.

9. This illustrates the omnipresent problem the FBI faces when ^{its employees who are} ^{disclosed} ^{its records} those (not familiar with the enormous volume of relevant FBI records process (for disclosure under FOIA. While in all the litigation with which I am familiar these ~~are~~ ^{withheld non-exempt information} processors do ~~without~~ that can be seen as embarrassing to the FBI, they also

^{maintain expert} lack the knowledge required to perceive all that can be embarrassing to it. ^{The FBI's subject} Those processing the Dallas and New Orleans FBI records involved in the combined litigation cited above knew very well that the FBIHQ order not to investigate the crime itself could be seriously embarrassing and thus in that litigation it was withheld from me. Those processing the Little Rock records did not have this knowledge and did not withhold it. In general, some claim to exemption to withhold what might be embarrassing is asserted, and in general, either the courts nor the litigants are in a position to ^{contest such an exemption with the litigants} ~~contest the~~ to them unknown.

6. An illustration of this that this Court may recall from my C.A. 75-1996

relates to ~~Marina~~ the then young widow, Marina Oswald. With the records of FBIHQ and seven field offices involved in that litigation, FBIHQ and all but one of these field offices withheld the very relevant response to the very relevant FBIHQ directives, that each field office provide an inventory of its holdings in both of these assassinations. Only the Chicago office, by inadvertence, provided me with a

copy of the directive and its response. In C.A. 78-0322 the Dallas office disclosed to me its response to FBIHQ but a large section was obliterated under obviously false *relating to Marina Oswald was totally* claims to "national security" and internal personnel rules and practises. *These files were within the request but even her name was was blacked out.* However,

as the records I provided this Court a decade ago establish, the FBI had already disclosed the fact of its authorized phone tap on Marina Oswald and its unauthorized bugging of her home before she moved into it. It had also disclosed, because, as I

its selection of attested without dispute, it disliked what she had said about the FBI to the Warren Commission, *(and personal)* the most intimate conversations she had with women friends and *of* (even her consultations with her lawyers. *aptn* Even when I provided the FBI with the file numbers *there*

under which it had ~~this~~ embarrassing series of records hidden (as "administrative matters" or "admat's" as they are known internally, *went in wing to make the same phony claims to description*) it resisted their disclosure as well as their file numbers, ~~8-66-2-66-13~~ 66-1313 and 66-1313A). It even persisted

in withholding the numbers of files labelled as "administrative matters" when they had nothing to do with administrative matters and related only to ~~electronic~~ *these* surveillances. The reason is obvious: the FBI hides ~~its~~ records of surveillances from

search with the phony "administrative matters" *designations* description. *Similarly,* *it took months of litigation to obtain in* *the FBI did the same thing.* ~~That~~, in another historically very important record ~~I obtained before this Court in C.A.75-1996,~~ *It*

~~when the FBI~~ had been directed to provide the Department's internal investigation of *with an inventory* its ~~its~~ treatment of Dr. King and its investigation of his assassination ~~records~~ it resisted disclosing before this Court for months, *of* *pertinent* all the multitudinous records of *all of* many field offices *This included* relating to the FBI's extensive *electronic* surveillances of Dr. King, *But they* are all

missing omitted from each and every inventory supplied FBIHQ for the Department by each and every field office. *yet* *field offices* *these* The FBI had rooms full of (tape recording)

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, despite its public posture and boasting,
It did not investigate that crime other than to make a case for its preconception, of
however, is a separate file.
Ray's lone guilt. Its fugitive investigation, ~~was~~ separate from its "MURKIN" file.
Even then it tried to keep its records from the local prosecution. the Department compelled it
Ultimately ~~to~~ the local prosecution FBIHQ only
~~compelled~~ to give ~~it~~ about a third of its MURKIN file ~~but~~ none of the field office
records, I obtained by the compulsion of FOIA litigation, and because of my subject-matter the knowledge
I have.

of Dr. Kings conversations with his closer associates and others all over the United States ^{mention of them} but there is ^{4th page of me} not even a hint of this in the inventories provided to the Department. ^{They were classified as allegedly irrelevant "administrative matters" and omitted.}

42/2. FBI records disclosed undevo to me under the compulsion of this Court are explicit in stating that it never investigated and never intended to investigate the crime of the assassination of Dr. King. All it intended, its own records state, was a ~~bug~~ "fugitive-type" investigation, James Earl Ray having escaped from the Missouri State Penitentiary a year earlier.

13. The FBI's intent to withhold what can embarrass it even from the Congress was also disclosed ~~before this~~ in my litigation before this Court. The records it provided to the House Select Committee on Assassinations are the subject matter of this instant litigation. Yet when the Congress created a special committee to investigate the assassinations of President Kennedy and ~~Dr. King~~ Dr. King the FBI decided to try to restrict that the Congress to only some of the records it had ^{already} disclosed to me under court compulsion, and were in its public reading room.

14. The foregoing are far from all the illustrations of deliberate and knowing FBI and Department intent to withhold what cannot properly be withheld that are within my personal knowledge and experience. I cite them from memory ^{as I can cite many} ^{more than} on its intent to withhold what may not properly be withheld. My personal experience with and personal knowledge of the means by which it misuses FOIA and imposes upon the trust of the courts also is quite extensive. Noen of my many attestations to this in other litigation has ever been refuted.

15.15. When the FBI has no alternative it is untruthful to withhold. This court may recall that it attested that it had no King assassination crime-scene photographs. FBIHQ It also attested that it had searched its MURKIN file for them, and thus knew it had no such photographs. Before it disclosed its FBIHQ MURKIN file to me I knew some of the crime scene photographs it had. I had been Ray's investigator. ~~He~~ I conducted successful the habeas corpus investigation and the investigation for the subsequent two weeks of evidentiary hearing. I knew from a source high in the Memphis Police Department that

it had taken many crime scene photographs and given them to the FBI. I knew also that LIFE Magazine had voluntarily given the FBI copies of photographs taken by Joseph Louw. When later I was able to read every page of the MURKIN records that SA Thomas Wiseman swore he had searched without locating any such photographs I found all of these and other the foregoing and much more relating to the FBI's possession of ~~ex~~ non-immune crime scene photographs recorded in them. It even had photographs it took itself. This is far from all the sworn-to untruthfulness with regard to what can embarrass it, even with regard to this one item of my requests litigated before this court. (The Court may recall that I provided an affidavit detailing the nature of this embarrassment, stating what the FBI misrepresented about its own photographic and other evidence.)

16. While within my experience it prefers not to lie, it does no and has not eschewed false swearing to what is material. It prefers other means of withholding, some of which I go into below as it relates to the Lieberman and similar declarations. However, on the matter of sworn untruthfulness, the appeals court has been sitting without even resetting the date of oral argument in my appeal from the district court's Order in the combined JFK assassination records case referred to above for a year, a year in which the Department, representing the FBI, has yet to file any response to my irrefutable allegations of FBI perjury, fraud and misrepresentation to procure the money judgement it got against me by those means only.

17. Its major affiant in that matter is the FOIA supervisor who could and should have filed the FBI's information, not Lieberman, because he, not Lieberman, has personal knowledge. He is SA John N. Phillips. Earlier in this instant cause he provided an affidavit I have and read in which he accredited himself as the case supervisor. However, he now not only has undenied felonies, including FOIA perjury, charged to him - he could run the same risk if he were to file in this instant cause what is material and to his knowledge not true. Lieberman is careful to state at the outset, if less specifically than I do, that he lacks personal knowledge and repeats what others have told him. (He also claims a general procedural knowledge that is not related to the specifics of the withholdings in this litigation and he

does not state that the FBI has no employees who have the personal knowledge required by the Londrigan decision in this circuit as I, a nonlawyer, understand that decision.)

18. SA Phillips is only one of a number of FBI FOIA personnel who, to my knowledge, have the requisite personal knowledge Lieberman lacks,. But the FBI is careful; to use before this Court none of those who have the personal knowledge and might be accused of misleading if not really lying under oath to this Court.

19. SA Phillips was the last of a series of FBI supervisors in my litigation before this Court and he was also supervisor in my above-cited JFK assassination case. He without doubt is qualified to provide the FBI's attestations to this Court.

20 Over the years the FBI has developed a FOIA boilerplate to unload on the courts and this Lieberman declaration is a prime example of this. His Category (b)(2), for example, beginning on page 13, summarizes the justification for withholding. Were Phillips, under penalties of perjury, to attest to the need to withhold all that information he and the FBI could face a real problem because in the cases in which he was supervisor he and it disclosed each and every one of those categories of information to me, some before this court

21 While there are many other such claims that lack fidelity and are contrary to the FBI's prior practice, because of the inherent danger to such an attestation by SA Phillips I skip to Category (b)(6)-3, page 14, "Names and identifying information of FBI Special Agents and clerical personnel."

22. There is a long history leading up to the FBI's current claim that it has to withhold such names, and I detail some of it from my litigation before this Court below to make clear that the FBI then and now undertook to mislead this Court. I cannot imagine Phillips attesting as Lieberman does or the FBI or its counsel permitting him to because he, personally, disclosed to me not only the names of disclosed to me all the Dallas FBI agents - he gave me their home addresses and home phone numbers.

He went further and disclosed whether, on the day President Kennedy was assassinated, the agents were in the "headquarters" or the Dallas office or at one of its residencies.

23. These are the very names Lieberman attests must be withheld and from those

Exhibit 2

of the records disclosed to Allen that I've seen are withheld!

24. Preceding Phillips as supervisor in my case before this court was Supervisor SA Martin Wood. He also withheld FBI names willynilly, including those and already disclosed, those who were virtually professional witnesses. for the FBI. I confronted him with the fact that Director Hoover had ordered those very names to be disclosed, as he did virtually all else that Lieberman attests must be withheld. (Director Hoover did that over the objections of his bureaucrats who were more interested in a cover for the prevention of embarrassment,) I also provide this Court with a letter from then Director Clarence A. Kelley in which he stated that FBI policy in historical cases, which both assassinations were held to be by the attorney general, was not to withhold the very names Wood was swearing that had to be withheld.

25. Wood then provided an affidavit in which he attested that policy had changed, as within my personal knowledge and experience it had not been, and henceforth those names would not be withheld. He then provided a Vaughn index in which he did withhold those very names.

26. No sooner than he swore that these FBI names could not be withheld under current FBI policy that Phillips, after having disclosed them in all the many records disclosed to me up to that time in the consolidated field offices cases, including the two lists above, started withholding all those very names he had disclosed and Wood swore could not be disclosed under current policy.