

AFFIDAVIT

My name is Harold Weisberg. I live at 7627 Old Receiver Road, Frederick, Maryland. I am a former reporter, investigative reporter, ~~the~~ United States Senate investigator and editor and government intelligence analyst.

1. I am the author of seven published books on the official investigations of the assassinations of President John F. Kennedy and Dr. Martin Luther King Jr and of several incomplete manuscripts on them. My work differs from that of others in the field in that I am not a conspiracy theorist and my books ~~are~~ ^{on} examinations of the way in which the basic institutions of our society, chiefly government agencies, ^{functioned} ~~worked~~ in those times of great stress and since. I have obtained and studied a large volume of once-withheld government records relating to these investigations, mostly those of the FBI. Because of my subject-matter expertise I have been consulted over a period of several decades by all elements of the media, domestic and foreign, ^{and by} ~~and~~ individual Members. Congressional committees. I have considerable experience with the FBI and Department of Justice in a number of FOIA lawsuits and am famil personally familiar with their practises in FOIA litigation. I have filed numerous lengthy and detailed affidavits in FOIA litigation. To date no significant error has been proven in any of ~~the~~ ^{my books or} ~~affidavits,~~ ^{above mentioned work and writing.} *New 2*

~~2. This affidavit is based on the knowledge and experience indicated in the preceding paragraphs.~~

3. I have some knowledge of Allen v. FBI, C.A. 81-1206. I made ^{a similar} ~~the~~ request of ~~the FBI~~ ^{the FBI} ~~litigates~~ ^{litigates} before ^{Allen} ~~he~~ ^{determine} ~~did~~ but my ^{premeditated} ~~health~~ ^{premeditated} ~~prevented~~ ^{my} ~~continuing~~ ^{the lawsuit} with ~~litigation~~ ^{the FBI} to obtain that information. It is typical of the FBI that it entirely ignored my request and reminders of it, ^{and} ~~and~~ my repeated appels also were entirely ignored. ^{and} ~~I~~ ^{have} ~~also~~ ^{read} some of the records disclosed to all in ~~this~~ ^{litigation.} *him to*

4. As soon as I saw that SA ~~David R.~~ ^{David R.} Lieberman executed the ~~declaration of~~ ^{declaration of} ~~June 2, 1997~~ ^{June 2, 1997} in support of the FBI's withholdings, I was confident that the FBI was ^{playing} ~~was~~ ^{what has become a routine trick a} ~~once again up to its standard tricks with the court,~~ ^{once again up to its standard tricks with the court,} one particular trick with which

2. I have read the June 2, 1987 declaration of FBI FOIPA supervisor David R. Lieberman in this instant cause and state, in summary, that he attests to what is not true, makes serious errors and clearly is ignorant of the subject matter of ~~Mark Allen's request~~ and ~~not competent to execute this declaration.~~ ^{has no knowledge of the JFK assassination investigation} ^{there is} ^{For one example,} ^{As I detail} below, he asserts that the FBI must ^{now} ~~withhold for a variety of reasons~~ what it has already disclosed.

I have much and costly personal experience. This trick is to get ^{a special agent} someone who is utterly lacking in the factual knowledge required to make the attestation instead of ^{one of} the readily-available ^{SA's} persons who do have the required factual knowledge. The incompetent affiant claims, as Lieberman does to accredit himself, to ~~be~~ be "familiar with the procedures followed in responding to FOIA requests", but he is careful not to state that he attests of personal knowledge. That would make him liable to allegations of perjury if ^{he} the attestation is ^{falsely} to what is ^{material} ~~that~~ material. Instead the claim to personal knowledge is hinted as, as Lieberman merely suggests it while making it clear that the most that can be said for his attestation is that he is repeating, without any basis for evaluating it, what others told him, the others who are competent to attest and do not. Lieberman also claims ~~to be able to read and~~ to have read the records attached to his declaration. He does not claim to understand them and in fact he does not, as ^{I document} will be made specific below. He is, without any question, grossly ignorant of what the FBI has disclosed and, lacking ^e personal knowledge and having already said he is repeating what others told him, has no reason to fear being charged with false swearing.

5. I was suspicious ~~as soon as I saw that Lieberman executed this declaration~~

because I knew that ~~he is the wrong one to do it~~ and because FBI SA ^{FBI's FOIA} John N. Phillips ^{was}

^{Lieberman lacks.} is the one who ~~is~~ ^{is} the case supervisor in this litigation and has for years supervised the processing of its JFK assassination records. He has the personal knowledge that the FBI's disclosure of records relating to the investigation of the assassination

of President Kennedy. As will become clear, Phillips could not attest to what

Lieberman attests ^{to his} because his personal knowledge would make him subject to charges of ^{swearing falsely of personal knowledge} ~~swearing falsely of personal knowledge~~. Phillips ^{disclosed to me} ~~has disclosed to me~~ FBI

records which leave it beyond question that the Lieberman declaration is false and thus it would be risky for him to make himself subject, no matter how slight the risk, to charges of swearing falsely to this court. Illustrations follow from the

attachments to the Lieberman declaration. ^(Paragraph 4 above)

6. Illustrative of the ^{FBI's} parade of FOIA supervisors (when it is alleged by a knowledgeable plaintiff that they have been untruthful, and perhaps within the

Examples follow below. See also paragraph 13 below.

"The stipulation was limited to my waiver of a Vaughn on the FBIHQ MURKIN records.

It provided for absolutely nothing else. But thereafter, whenever I raised any issue, the FBI claimed it was not covered by the stipulation and by this means it stonewalled indefinitely. For his achievement Hartingh was promoted. (Ralph Harp, The analyst who withheld so extensively the appeal; director testified as the FBI's witness that the records should be reprocessed, was promoted to special agent.)

recollection of this court, is the number of them in my C.A. 75-1996 ^{IT} which sought records relating to the King assassination. First ~~there was~~ ^{that FBI had} SA Tom Wiseman. I caught him lying and he was replaced. (The court may recall, for example, that he swore crime-scene pictures did not exist and he attested that he had searched the MURKIN file for them. ^{act with} The MURKIN file disclosed the existence of a large number of ~~precisely~~ crime scene pictures from a number of sources, including the Memphis police and the FBI itself as well as those taken by private parties. Wiseman, too, claimed to attest on the basis of what, in the boilerplate repeated by Lieberman, is "information furnished to me in my official capacity." ~~XXXXXXXXXXXX~~ Wiseman stated that his information relating to pictures also came from FBI SA John Kilty but in fact Kilty both wrote ~~Wiseman~~ ^{wise} and ~~attested~~ ^{testified} when I deposed him that he had no knowledge and no ~~competence~~ with regard to these pictures. ^{so he would not and did not search.})

7. Wiseman was replaced by SA John Hartingh, who engineered a stipulation the FBI never ~~intended~~ ^{insist on 3 here} to abide by and in fact violated from the very first. ~~the government thereafter claimed the irrelevant, that all matters contested were outside that stipulation, which had entirely different purposes. For this achievement Hartingh was promoted. He was replaced by SA Horace Beckwith. The FBI was careful not to inform this court that Beckwith was very vulnerable, among other liabilities from it because he ^{was} ~~was at the time~~ an unindicted co-conspirator in the case against then acting FBI Director Pat Gray and several other officials. ^{top FBI} I provided an affidavit proving that Beckwith swore falsely, ^{when I informed the court of this I also did not deny told} which he ~~never denied~~. This court (Beckwith it did not want to see him in its courtroom and he left.~~

8. I am not certain that SA Martin Wood was his immediate successor, but Wood did follow him. Making a search is burdensome for me now and I execute this affidavit from recollection of my personal knowledge. The court may recall that I was limited in 1975, having suffered ~~several~~ acute thrombophlebitis before the first calendar call. This court has not seen me since the late summer of 1980 because I am much more severely limited as the result of several serious complications following arterial surgery. I now cannot, for example, stand still, which is required in searching

and filing,

files, and I can use stairs only with care and difficulty. All of the records I received through FOIA litigation are preserved exactly as I received them in the basement of our home. Ultimately they will be a permanent public archive. The arrangements for ^{this} ~~which~~ have been made. ~~XXXXXX~~ This is why I do not search to determine whether there was any other supervisor prior to Wood.

and for the many other records I refer to herein

9. The court may recall that Wood swore that the FBI did not have any Atlanta map allegedly marked by James Earl Ray, ~~accused of killing doctor King, and~~ that it did not have other relevant items I had informed the court it did have.

to show whether King lived and was kept and

Wood did not have and did not claim to have personal knowledge. He was, like Lieberman, "familiar with the procedures" ^{was / what he swore to} and told by others who could and should have made the attestations. I ^{knew} ~~had personal knowledge~~ ^e that the FBI did ~~not~~ have that map and ^{this map} accurate information that it had siezed ~~it~~ illegally, by what was known as a

The FBI's own records,

I know from

"black bag" job, in Atlanta. Bearing on the regard the FBI has for telling the truth ^{under} ~~under~~ oath, when word of this black bag job got out FBIHQ phoned ~~the~~ its SAC Hitt in Atlanta, told him to execute an affidavit denying there had been a black bag job and he did, ^{as ordered after that /} and then the FBI disclosed to me, before this court, ^{what was siezed was forwarded to} ~~just~~ who did that black bag job and how ~~and even records of how it was sent to~~ FBIHQ separate from what was not obtained illegally.

10. After it was without question that with regard to many matters Wood had sworn falsely before this court he was replaced, by the same ~~John N. Phillips~~ John N. Phillips who is case supervisor in the Allen case and who was also supervisor in the disclosure of many thousands of JFK assassination records to me in my C.As 78-0322/0420 combined.

11. Of all the many FBI employees who had personal knowledge of its ~~King~~ King assassination investigation, it managed to assign ~~as~~ as supervisors in the case before this court a succession of case ignoramuses ~~all of who swore to what is not true,~~ ^{who were untruthful to this court} with the exception of Hartingh, who avoided attestayion and devoted himself to successful annipulation.

14. I have no recent knowledg[e] that Phillips is still assigned to my case and Allen's and I am not a lawyer. I am familiar with the decision of the appeals court in the Londrigan case. It requires that if the government has persons of first - person knowledge they and not the uninformed provide the ~~g~~overnment's testimony. Wherever the FBI may have Phillips assigned, he could have prepared ~~his~~ its attestation of personal knowledge Lieberman obviously does not have. Phillips also had a staff of special agents who have processed JFK assassination records for many years and ~~also~~ do have personal knowledge. Other ^{FBI} JFK assassination experts, one I recall named Howard, testified before this court and have perschal knowledge. (Howard testified to processing the complete JFK assassination files three times.) So, in addition to a long record of providing affirmations that are not truthful, the FBI in this case presented the declaration of a ~~special~~ special agent who hasn't the slightest idea what he is talking about when he makes factual representations ^{the FBI} and ~~ignores~~ the usual requirement and the requirement of Londrigan, that attestations be of first-person knowledge, ^{when it} ~~the~~ ~~just~~ cannot claim it has no such personas available to it.

12. Also illustrative of the ^{dependability} validity of the FBI's affirmations, ~~again~~ ^{and my} ~~from~~ personal experience with this same Supervisor Phillips) ^{is another example,} is the fact that when their affirmations can be checked by those who have factual knowledge, as I do, they not only have not been able to refute allegations of false swearing - they do not make even pro forma denial.

13. I use the word "tricks" above relating to FBI practises in my FOIA litigation. Because of my impaired health I ^{sought} ~~sight~~ to dismiss, ^{and not refile} the King case before this court and the FBI refused. In the JFK case in which Phillips is supervisor

~~xxxxxx~~ ^{with prejudice against myself} I also sought to dismiss and not refile and the FBI again refused. Instead it resorted to other tricks I will explain if the court desires and as a result got a money judgement against me, for the first time in FOIA litigation. It also created a conflict of interest between my counsel and me and thus I ~~am~~ ^{was} pro se.

In order to get this money judgement Phillips and others, mostly Phillips, made certain representations to that court and prevailed. Simultaneously Phillips was disclosing to Allen in this litigation FBI records that leave it without question that ^{The FBI} this money judgement ~~was~~ ^{was} procured by, perjury, fraud and misrepresentation. My allegations are undenied. The records Phillips disclosed that prove the infidelity ^{The charges I made based on them} of his and other representations to that court are not ~~and indeed~~ ^{have not been and} ~~disputed,~~ ^{refuted}

The FBI and the Department have not responded to my last filing before the appeals court and for more than a half year that court has been sitting on that case without ^{re-} setting ~~time for~~ oral arguments. ^{1 n 5 or 1.5 here}

14 It is my experience that to frustrate disclosure of what can embarrass it and to make use of FOIA and FOIA litigation costly and time-consuming, including to the overburdened courts, the FBI stonewalls, ^{and repeats its successful} ~~repeating the~~ tricks that work over ^{diverts, digresses and} and over again. ^{The courts cannot be improved on all subjects} It states what is not true and what it knows is not true and then the plaintiff ^{is} is faced with a Hobson's choice, between lengthy and detailed affidavits ~~and~~ which burden him and the court and risking losing by not ~~xx~~ refuting one of the multitudinous FBI infidelities to fact ^{and reality}

18. If the Court agrees this further stalls ^{indefinitely already} a case ^{another} now six years old, a condition with which I have personal experience. If the information is ^{properly} classified there is no need to assert a privacy claim. The privacy claim is asserted for information that is not classified and not classifiable ^{because it was declassified by the FBI and} because it was disclosed by the FBI ^{if granted,} itself. This dodge, assured that there will be referral to the Classification unit which also has no subject-matter ^{thus} expertise and has no ^{was} knowledge of knowing what has already been disclosed. There is no reason to doubt that after some time the Classification Unit ^{would} will rubber stamp the withholding the FBI wants even though the FBI already placed that very information in the public domain. In addition, the Classification Unit lacks the subject-matter knowledge to make a balancing test ~~and decide~~ to determine, should there be such a situation, whether public interest overrides privacy concerns in this historical case.

The FBI does
16. This is what is ~~done~~ with the Lieberman declaration and this is why *it uses a*
subject-matter ~~to~~
identifiable case ~~ignoramus~~ *is used by the FBI to* "declare under penalty of perjury"
that his declaration is "true and correct" when it, quite obviously, is neither, as I
show in what follows. ~~The fact~~ *actuality* is that unless he also lacks understanding,
Lieberman also ~~did~~ *does* not tell the truth in stating that he made a "person^{al} review of
the documents" in question because those very documents, some of which I attach in
what follows, ~~prove~~ *his* ~~untruth~~ *untruth* (beyond question? *He also discloses* ~~what~~ *what* he attests has
to be withheld. ~~and~~ there are a number of instances of this.

17. Lieberman ~~then~~ *FBI's* begins his justification of the withholdings with the
kind of boilerplate I am familiar with, *He adds a dodge that is* ~~but with a provision new to me: If the court~~
accepts that request the rubber-stamping of improper withholdings is certain:

1 of
18 here
(15) Should the Court reject any assertion of the (b)(7)(C) exemption
within the material processed for the plaintiff, the FBI desires to
reserve the option of providing these materials to its Classification Unit
for review to determine whether or not a (b)(1) claim is applicable."
~~The (7)(C) claim is asserted in the sample pages with regard to information that is~~
~~not classified and there is formerly classified information that has already been~~
~~disclosed. It thus follows that absent detailed subject-matter knowledge by the~~
~~Classification Unit the rubber-stamping of what has been disclosed is assured. To~~
~~determine whether the privacy claim is asserted properly requires other factual know-~~
~~ledge, such as the importance of and public interest in the withheld information.~~
also

19. Lieberman ~~also~~ states with regard to the disclosure of "rap" sheet that
despite a cited appeals court decision requiring their disclosure they ~~continue~~ *FBI* to ~~be~~
withheld pending ~~determination of whether there will be an appeal.~~ *decision to appeal* Separate from this
is the fact that the FBI has on this subject-matter disclosed "rap" sheets to me.

They also are included in the FBI's ~~to large~~ *large* general releases ~~of~~ JFK assassination records *1977 and 1978*
"rap sheet" and thus ~~they~~ are publicly available in the FBI's own reading room and other such *them.*
repositories available to the public. *I believe The Warren Commission also published*

208. Under "Explanation of format utilized for justification of deleted material"
Lieberman states that his declaration "details the specific exemption asserted for a

particular deletion, giving a precise description of the deleted material, and provides a justification for the exemption claimed." These are not all "precise" and not all faithful to the language and intent of the Act. For example, it is not true of his claim to "Category (b)(2)", which he describes as merely "internal practices." This exemption does not encompass all "internal practices." By this ^{language} misrepresentation of the act and the intent of this exemption he includes claims that are outside the exemption. What he omits in this "precise description" are the limitations of the exemption, first that it be asserted ^{only} for information that is "solely" related ^{all} not to ^(Emphasis added) "practices" but to the internal personnel rules and practices of the agency." The FBI and Lieberman then assert this claim to include what does not relate to the FBI's "personnel." ^(criminals who are) "its informants are not FBI personnel" ^{and these} ^{private citizens who mainly give it information} ~~private citizens~~ ^{And its sources certainly are not.} "FBI personnel."

particular deletion, gives a precise description of the deleted material, and provides a justification for the exemption asserted." This is not always true, for example, it is not true with his claim to "Category (b)(2), which he describes as "internal practises," of which he lists ^{NY.} ~~the~~ language of the statute includes a word the FBI always omits and Lieberman here also omits, "solely." The claims he makes are not "solely" such internal personnel practises. In my lawsuit before this court the FBI produced as its expert witness the then appeals director, Quinlan J. Shea, Jr., and with regard to ~~some of~~ this claim to (b)(2), Shea testified ~~as the FBI's own expert~~ ^{then when justified informants and source are covered by their exemptions} - that it was asserted improperly and is properly with other exemptions if justified.

2219. With more specific reference to these six claims to "justification" under (b)(2) I state that the FBI has disclosed precisely this information to me, over and over again, in some instances did not once withhold it ~~in about a third of a million pages,~~ ³ and in his own declaration Lieberman himself discloses what he attests must be withheld. The FBI has disclosed to me its permanent symbol numbers and file numbers assigned to its informants and a number of instances of this are (It also disclose their number to me) in the case record of my lawsuit before this court. ¹ Perhaps the court will recall the matter of ~~FBI~~ ^{to} Informant Oliver Patterson, which received extensive attention at the time. (The actuality is that the FBI disclosed Patterson's identity ^{to others} over his written objection.) What to now was never withheld from any record I have ever seen is the "temporary source symbol numbers," a rather exaggerated representation about which Lieberman later is simply untruthful, as I detail below. This is not really a "symbol number." an arbitrary and arbitrary meaning It is the substitution for a name, like T-1. and of these the FBI must have millions that are in no way identifiable. Lieberman himself discloses

"dissemination markings," which he attests must be withheld, ~~and~~ I attach the first ~~law~~ ^{of this disclosure in his} instance in each part of his Exhibit R below. (Exhibits _____) ^{as I show below} 230 With ~~regard~~ ^{is justifying withholding and his records bear my} to the claim to (b)(3), ~~where~~ Lieberman discloses what he supposedly withheld, the claim is without merit. (See Exhibit _____) The FBI has also disclosed the names of individuals who testified before grand juries to me.

Lieberman offers no support of any kind for his conclusory statement that there are invasions of privacy and that they are unwarranted. To be able to state this honestly, to be competent to offer any opinion, he is required to have considerable subject-matter expertise that he neither claims to have nor has. He has no way of knowing whether the information he ~~says~~ ^{attests} must be withheld has already been ^{officially} disclosed, as so much has been, by the Commission, by the FBI and even in ^{trials} ~~courtrooms~~. Although he states elsewhere (as on page 25) that there was a balancing test, he does not claim to have done this personally and he is not able to do it personally, he does not say who did it and whether that person was competent, and it is obvious that where what was officially disclosed is withheld there was no balancing test made or possible. With regard to this claim and his other claims that I question and dispute, specifications follow below.

~~24~~ Lieberman's longest listing, more than two pages, is of claims to (b)(6) and (7), more than two pages of supposedly "clearly unwarranted invasion of personal privacy" and "~~unwarranted invasion of personal privacy~~" and "~~Confidential Source Material~~." With regard to each and every so-called "justification," without a single exception, the FBI has disclosed precisely this information to me, quite extensively ⁵ and in the JFK assassination case in which Phillips also is supervisor.) in ~~my~~ case before this court. I also provide examples of the utter spuriousness and rickulousness of the claims Lieberman makes, including in his withholding of particularly what Phillips disclosed to me and withheld from Allen. what the FBI itself has already disclosed, If I were to try to provide all the illustrations of this I have it would be a physical impossibility to transport those disclosed FBI records to this court, they are that extensive. Moreover, when this matter was presented to Director J. Edgar Hoover when the Warren Commission wanted to publish records it got from the FBI, Hoover pointedly ^{and vigorously} overruled his bureaucrats, ^{He} and ordered that none of this be withheld and throughout 26 large volumes, in the National Archives and at other repositories this ^{kind of information} ~~is~~ not withheld. I ^{know} ~~one~~ of no ^{even} single instance of ^{FBI's now} ~~one~~ conjectured horrors being a reality. There was no damage. With regard to the withholding of FBI names, ^{also} FBI Director A Clarence Kelley ^(specifically) was specific and unequivocal in stating that they would not be withheld in historical case and ~~not in this case~~ the case of JFK assassination requests. ^{information}

This also is in the record of my case before this Court.

25 Aside from the questions of whether some of this information ought be withheld in historical cases - and I have never ^{seen any document showing} been informed by the FBI that any director ~~has~~ overruled Directors Hoover and Kelley - and whether or not the identical ~~is~~ information has already been officially disclosed, ~~there is Lieberman's claim that his justification of these withholdings is because they are a "clearly unwarranted invasion of personal privacy." He had not show that there has been an effort to balance between privacy and public interests and he has not even bothered to deny that there are other purposes involved in some of these withholdings, like withholding what could be embarrassing to the FBI.~~

26 As I state above, information within all of these categories has been disclosed to me by the FBI. Aside from the illustrations mentioned above I cite

The Memphis sheriff violated James Earl Ray's right by intercepting all this mail, including with his lawyers, and xeroxing it and then giving copies to the FBI. The FBI ~~the~~ ^{YHND} provided me with ~~copies~~. It also provided me with information from ~~any~~ other local police agencies and it disclosed this kind of source information to me in the JFK ~~case~~ ^{It abounds out} and through authorized disclosure by the Warren Commission. This is but one of the many examples of ~~what~~ why I state that to be able to attest honestly and competently Lieberman is required to have the information he ~~neither~~ has no claims to have.

what the court may recall from my case before it with regard to his (b)(7)(4-6) claims, ~~in disputing his claim~~ that the FBI is required to withhold the "identities of, and information provided by" ~~either state or local government agencies~~ ^{three kinds of} sources, "non-Federal Government law enforcement agencies;" "either state or local government agencies;" and "financial, credit and commercial institutions." All of this kind of information from precisely these sources abounds in the King assassination information disclosed to me before this court ~~and in the disclosure of Kissinger's~~ ^{records}

27. Not only were those other police and other government agencies identified by name and not only was their information provided to me in truly great volume, the FBI provided me with ~~xeroxes of what was provided to me by such agencies.~~ ^{copies of evidence and in some instances photos of reports} This ~~is even true of foreign police agencies,~~ ^{and then and intelligence agencies, if they are} which may be included under non-federal law enforcement agencies in the Lieberman listings. In the case record in my lawsuit before this court ~~are xeroxes of what the Canadian Mounted Police and Scotland Yard gave the FBI and it disclosed to me along with much more numerous~~ ^{for example,} ~~representations of the~~ ^{purpose} ~~evidence they gathered in their investigations.~~ An abundance of information provided to the FBI by the Memphis police was provided to me ~~in that litigation by the FBI.~~ ^{series of} The court may recall all those "red squad" ~~crime scene~~ reports and all those ~~pictures the FBI had sworn did not exist.~~ ^{such} (It also provided me with prints of ~~pictures taken by federal non-law enforcement agencies.~~ ^{insert here}) ~~It provided information from a number of other local police agencies.~~

28. In the case before this court it disclosed to me a large volume of information it obtained from financial, credit and commercial institutions. The court may remember the quite extensive checking of phone calls, with virtually all the telephone companies extending from California to New Orleans involved as well as a very large number of other phone companies whose records are involved in the other ends of calls made from this southern belt. The court may also remember the extraordinary volume of motel and hotel registrations disclosed in that litigation when the FBI obtained them from a very large number of such places ^{extending} (from Atlanta and Birmingham all the way to Memphis. There were many credit-agency checks and the results were disclosed.