

10/20/86

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG and )  
JAMES H. LESAR, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 U.S. DEPARTMENT OF JUSTICE, )  
 )  
 Defendant. )  
 )

Civil Action No. 86-1547

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant respectfully moves the Court to grant summary judgment in its favor on the ground that there is no genuine issue as to any material fact and defendant is entitled to judgment as a matter of law. In support of this motion, defendant files the Declaration of Angus B. Llewellyn, Special Agent of the Federal Bureau of Investigation, a Statement Of Material Facts As To Which There is No Genuine Issue, and a Memorandum Of Points And Authorities. A proposed order is also submitted herewith.

Respectfully submitted,

\_\_\_\_\_  
JOSEPH E. DIGENOVA, D.C. Bar #073320  
United States Attorney

\_\_\_\_\_  
ROYCE C. LAMBERTH, D.C. Bar #189761  
Assistant United States Attorney

*Nathan DodeLL*  
\_\_\_\_\_  
NATHAN DODELL, D.C. Bar #131920  
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion for Summary Judgment, Declaration of Angus B. Llewellyn, Statement of Material Facts, Memorandum of Points and Authorities and proposed order was mailed to James H. Lesar, Esquire, 918 F Street, N.W., Suite 509, Washington, D.C. 20004 this 20th day of October, 1986.



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NATHAN DODELL  
Assistant United States Attorney  
United States Attorney's Office  
Civil Division  
Judiciary Center Building - 4th FL.  
555 4th Street, N.W.  
Washington, D.C. 20001  
272-9202

UNITED STATES DISTRICT COURT  
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Civil Action No. 86-1547

STATEMENT OF MATERIAL FACTS AS TO  
WHICH THERE IS NO GENUINE ISSUE

1. By letter dated May 22, 1980, plaintiff Weisberg requested twelve items or categories pertaining to the processing and release of the Federal Bureau of Investigation's (FBI) Kennedy assassination files. Exhibit A to Llewellyn declaration.

2. The FBI, by letter dated July 1, 1980, advised Mr. Weisberg that a previously granted fee waiver did not extend to his May 22, 1980 request among others. Exhibit B to Llewellyn declaration.

3. By letter dated July 29, 1980, Mr. Weisberg limited the scope of his request to item number seven only of his May 22, 1980 request, and also limited the scope of item number seven. Exhibit C to Llewellyn declaration. Mr. Weisberg's letter of May 22, 1980 stated, in pertinent part:

Beginning in 12/77 the FBI made what it referred to as general release of records pertaining to the assassination of President Kennedy and its investigation. This request pertains to those releases and is for all records pertaining to them, to

\* \* \*

7) Conditions and restrictions, access and distribution of what was disclosed, including duplicate copies, if any, and where, when and how deposited.

Mr. Weisberg's letter of July 29, 1980 stated: "Without regard to the other information requested in Item 7, I here request that copies of all records pertaining to the duplicate public deposits, if any, and where, when and how they were made, aside from the FBI's public reading room, be provided."

4. By letter dated August 6, 1980, plaintiff Lesar appealed the "de facto denial" of Mr. Weisberg's request of May 22, 1980. Exhibit D to Llewellyn declaration. Mr. Lesar's letter does not make reference to Mr. Weisberg's letter of July 29, 1980, limiting the request of May 22, 1980, in response to the FBI's letter of July 1, 1980.

5. By letter dated August 25, 1980, the FBI acknowledged Mr. Weisberg's letter of July 29, 1980. Exhibit E to Llewellyn declaration.

6. Plaintiff Weisberg, by letter dated August 28, 1980, alleged that the FBI was "stonewalling" his request. Exhibit F to Llewellyn declaration.

7. The request contained in item 7 of Mr. Weisberg's May 22, 1980 letter as limited by the July 29, 1980 letter is very similar to request number two of Plaintiff's Request for Production of Documents in G. Robert Blakey v. Department of Justice and Federal Bureau of Investigation, Civil Action Number 81-2174.<sup>1/</sup> In Blakey, plaintiff requested "all records relating to any plan or proposal

<sup>1/</sup> In Blakey, this Court granted the government's motion for summary judgment. 549 F. Supp. 362 (D.D.C. 1982), affirmed in part and vacated in part, 720 F.2d 215 (D.C. Cir. 1983)(table).

to place copies" of FBIHQ JFK assassination records in any library or research facility, as does Mr. Weisberg. Plaintiff Lesar was counsel for Mr. Blakey in that case.

8. Access to the FBI Central Records System is afforded by the general indices, arranged in alphabetical order, consisting of index cards on various subject matters, including names of individuals. The FBI's indices are described in Mr. Llewellyn's declaration, at paragraphs 6 and 7. ←

9. Upon receipt of the request for Production of Documents in Blakey, a search of the General Indices was conducted. The only reference located was the "main" file pertaining to the assassination of President Kennedy as possibly containing responsive records. Llewellyn declaration, paragraph 8.

10. It was then necessary to conduct a page by page review of the pertinent time period of 1977 to 1978 of the Kennedy file. As a result of this search, a letter from the Library of Congress to the FBI dated December 6, 1977 was located. A copy of this letter is Exhibit G to the Llewellyn declaration. This was the only document located which was responsive to Mr. Blakey's request. Llewellyn declaration, paragraph 9.

11. After receipt of the complaint in the instant case, a page by page search was again conducted of the Kennedy assassination file. A search was also conducted of the file pertaining to requests of plaintiff Weisberg since he was a requester for the Kennedy files. This search did not locate any additional material responsive to plaintiff's request. Llewellyn declaration, paragraph 10. |

12. The only other information which may be pertinent to plaintiffs' request was answered in response to interrogatory number six in Blakey, supra. That answer provided information as to certain requesters who were supplied JFK assassination records sought by Professor Blakey. A copy of the answers to interrogatories is Exhibit H to the Llewellyn declaration.

13. On September 21, 1986, another search was conducted of the General Indices in an effort to locate responsive material. No additional record could be located as a result of this search.

Respectfully submitted,

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JOSEPH E. DIGENOVA, D.C. BAR #073320  
United States Attorney

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ROYCE C. LAMBERTH, D.C. BAR #189761  
Assistant United States Attorney

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NATHAN DODELL, D.C. BAR #131920  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
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\_\_\_\_\_ )

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. It arises out of a FOIA request dated May 22, 1980, by plaintiff Weisberg,<sup>1</sup> as limited by his letter of July 29, 1980.<sup>2</sup> The request is for "copies of all records pertaining to the duplicate public deposits [of JFK assassination files], if any, and where, when and how they were made, aside from the FBI's public reading room."

*abstract 7*

The FBI has searched three times for responsive documents. It did so first in response to a very similar request for production of documents in G. Robert Blakey v. Department of Justice and Federal Bureau of Investigation, C.A. No. 81-2174. Llewellyn declaration, paragraph 5. The FBI conducted a page by page review of the pertinent time period of 1977 to 1978 of the Kennedy file. As a result of that search, a letter from the Library of Congress to the FBI dated December 6, 1977 was located. Exhibit G to the Llewellyn declaration.

<sup>1</sup>/ Exhibit A to declaration of Angus B. Llewellyn, filed herewith.

<sup>2</sup>/ Exhibit C to Llewellyn declaration.

The only other information which may be pertinent to plaintiffs' request was provided in response to interrogatory number six in Blakey. That answer provided information as to certain requesters who were supplied JFK assassination records sought by Professor Blakey. A copy of the answers to interrogatories is Exhibit H to the Llewellyn declaration.

After receipt of the complaint in the instant case, a page by page search was again conducted of the Kennedy assassination file. A search was also conducted of the file pertaining to requests of plaintiff Weisberg since he was a requester for the Kennedy files. This search did not locate any additional material responsive to plaintiffs' request. Llewellyn declaration, paragraph 10.

*how?*  
On September 21, 1986, another search was conducted of the General Indices in an effort to locate responsive material. No additional record could be located as a result of this search. Llewellyn declaration, paragraph 12.

#### DISCUSSION

In Weisberg v. U.S. Department of Justice, 745 F.2d 1476, 1485 (D.C. Cir. 1984), the Court held that an agency seeking to establish that it had produced all responsive records could do so by filing a detailed and non-conclusory affidavit indicating the extent to which "it ha[d] conducted a 'search reasonably calculated to uncover all relevant documents.'" The Llewellyn declaration describes the scope and method of the search that was made.

Thus, Mr. Llewellyn explains that, not only were the indices searched, but also page by page searches were made of the Kennedy



file for the pertinent time period of 1977 to 1978. As a result of this search, a letter from the Library of Congress to the FBI dated December 6, 1977 was located. A search was also conducted of the file pertaining to requests of plaintiff Weisberg. Llewellyn declaration, paragraphs 8-12.

The Llewellyn declaration clearly satisfies the Weisberg standard. Accordingly, the defendant is entitled to judgment. In addition to Weisberg, see Meeropol v. Meese, 790 F.2d 942, 952-953 (D.C. Cir. 1986); Goland v. CIA, 607 F.2d 339, 352 (D.C. Cir. 1978), cert. denied, 445 U.S. 927 (1980); Marks v. U.S., 578 F.2d 261, 263 (9th Cir. 1978).


CONCLUSION

For these reasons, it is respectfully submitted that summary judgment should be granted in favor of defendant.

Respectfully submitted,

JOSEPH E. DIGENOVA, D.C. Bar #073320  
United States Attorney

ROYCE C. LAMBERTH, D.C. Bar #189761  
Assistant United States Attorney

  
NATHAN DODELL, D.C. Bar #131920  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
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	)	
U. S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	

DECLARATION OF ANGUS B. LLEWELLYN

I, Angus B. Llewellyn, make the following declaration:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned in a supervisory capacity to the Freedom of Information-Privacy Acts (FOIPA) Section, Records Management Division, FBI Headquarters (FBIHQ), Washington, D. C.

(2) Due to the nature of my official duties, I am familiar with the procedures followed in processing Freedom of Information Act (FOIA) requests received at FBIHQ; including plaintiff Weisberg's instant request for documents concerning the release of the FBI's John F. Kennedy assassination files.

(3) The following are items of correspondence with plaintiffs pertaining to this FOIA request:

(A) By letter dated May 22, 1980, plaintiff Weisberg requested twelve items or categories pertaining to the processing and release of the FBI's Kennedy assassination files. (A copy of this letter is attached as Exhibit A.)

(B) FBIHQ letter to plaintiff Weisberg dated July 1, 1980, advising that a previously granted fee waiver did not extend to his May 22, 1980, request among others. (A copy of this letter is attached as Exhibit B.)

(C) Plaintiff Weisberg's letter dated July 29, 1980, limiting the scope of his request to item number seven only of his May 22, 1980, request, and also limiting the scope of item number seven. (A copy of this letter is attached as Exhibit C.)

(D) Plaintiff Lesar's letter to Quinlan J. Shea, Jr., Department of Justice, dated August 6, 1980, appealing the de facto denial of plaintiff Weisberg's request. (A copy of this letter is attached as Exhibit D.)

(E) Letter from FBIHQ to plaintiff Weisberg dated August 25, 1980, acknowledging receipt of his July 29, 1980, request. (A copy of this letter is attached as Exhibit E.)

(F) Letter from plaintiff Weisberg to the FBI dated August 28, 1980, alleging the FBI was "stonewalling" his request. (A copy of this letter is attached as Exhibit F.)

(4) Based on the correspondence cited above and as represented to the Court by defendant's counsel at the status hearing on September 19, 1986, this declaration will deal only with item number seven of plaintiff's request of May 22, 1980, as limited by his letter of July 29, 1980.

(5) It should be noted that this request is very similar to request number two of Plaintiff's Request for Production of Documents in the case of G. Robert Blakey v. Department of Justice and Federal Bureau of Investigation, Civil Action Number 81-2174. In this case Mr. Blakey requested "all records relating to any plan or proposal to place copies" of FBIHQ JFK assassination records in any library or research facility, as does Mr. Weisberg. Plaintiff Lesar was counsel for Mr. Blakey in that case.

Explanation of the FBI's Central Records System  
and General Indices:

(6) Access to the FBI Central Records System is afforded by the general indices, arranged in alphabetical order, consisting of index cards on various subject matters, including names of individuals. The decision to index is made by the investigative Agent and the supervising Agent, except for the names of subject(s), suspect(s) or victim(s) carried in the case caption, which are automatically indexed. The Central Records System contains administrative, applicant, personnel, general and investigative files compiled for law enforcement

purposes. The records system consists of a numerical sequence for classifying of files broken down according to subject matter. The subject matter of a file may relate to an individual, organization, company, publication, activity or foreign intelligence matter. The index cards in the general indices fall into two categories: "main" index cards and "see" index cards (i.e., cross references). A "main" index card carries the name of an individual, organization, activity, etc., which is the subject of a file contained in the records system. A cross reference card bears the name of an individuals, organization, activity, etc., other than the main subject, which name is incidentally referenced to a portion of a document maintained in the system. Generally, cross references are only a mention or reference to that individual or organization contained in a document (or in a portion of a document) located in the main file of another individual or organization.

(7) Cross references may contain insufficient background or other identifying information by which a positive identification can be made with a given name. In many instances, receipt of specific additional identifying information from an FOIPA requester can assist in making a positive identification. Futhermore, it should be noted that the FBI indexes neither all names of individuals contacted or mentioned nor all information received during an investigation. Only names and

information considered pertinent, relevant and necessary for future retrieval in support of investigation are indexed. Only that portion of a document pertaining to names or information indexed is considered to be the cross reference.

(8) Upon receipt of the Request for Production of Documents in the Blakey case, a search of the General Indices was conducted. The only reference located was the "main" file pertaining to the assassination of President Kennedy as possibly containing responsive records.

(9) It was then necessary to conduct a page by page review of the pertinent time period of 1977 to 1978 of the Kennedy file. As a result of this search, a letter from the Library of Congress to the FBI dated December 6, 1977, was located. (A copy of this letter is attached as Exhibit G.) This was the only document located which was responsive to Mr. Blakey's request.

(10) After receipt of the complaint in the instant case, a page by page search was again conducted of the Kennedy assassination file. A search was also conducted of the file pertaining to requests of plaintiff Weisberg since he was a requester for the Kennedy files. This search did not locate any additional material responsive to plaintiffs' request.


(11) The only other information which may be pertinent to plaintiffs' request was answered as interrogatory

number six in the Blakey case, supra. (A copy of the answers to the interrogatories are attached as Exhibit H.)

(12) On September 21, 1986, another search was conducted of the General Indices in an effort to locate responsive material. No additional record could be located as a result of this search. (A copy of the search slip is attached as Exhibit I.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of October, 1986.

  
\_\_\_\_\_  
Angus B. Llewellyn  
Special Agent  
Federal Bureau of Investigation  
Washington, D. C.

Mr. David Flanders  
FOIPA Branch  
FBI  
Wash. D.C. 20535

5/22/80

FOIA request

Dear Mr. Flanders,

Beginning in 12/77 the FBI made what it referred to as general release of records pertaining to the assassination of President Kennedy and its investigation.

This request pertains to those releases and is for all records pertaining to them, to

- 1) The decision to make these releases
- 2) The reasons for making the decision and for making it when it was made
- 3) For including and excluding files that were included and excluded
- 4) For not including any field office files, particularly the major files of the Office of Origin
- 5) Lists of pertinent records and/or files, whether included or excluded and of withholdings, in part or in toto, including by referral, when referral was made and when responded to; and of justifications of withholdings
- 6) The disclosure of the records disclosed and the non-disclosure of the records not disclosed
- 7) Conditions and restrictions, access and distribution of what was disclosed, including duplicate copies, if any, and where, when and how deposited
- 8) Effects, including benefits or liabilities, to any part or function of the Government, including litigation, ongoing or anticipated, and FOIA requests
- 9) Costs of making and not making these disclosures
- 10) Any references to me in any of the records described in this request
- 11) The processing of the disclosures, including copies of all worksheets not yet provided to me, and approval or disapproval of higher or other authority
- 12) Efforts, if any, to determine whether what was withheld was public domain or had been disclosed by the FBI or other agencies, including by claim to classification

If you have any questions, please ask them. Sincerely, Harold Weisberg





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JUL 1 1978

Mr. Harold Weisberg  
7627 Old Receiver Road  
Frederick, Maryland 21701

Dear Mr. Weisberg:

On January 16, 1978, United States District Judge Gerhard Gesell ordered the Federal Bureau of Investigation to make a copy of the materials concerning the assassination of President John F. Kennedy which were scheduled for release on January 18, 1978, available to you at no charge. By letter dated March 31, 1978, to your attorney, Mr. Lesar, the Department of Justice advised you that records of the Department of Justice compiled pursuant to the investigations of the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr., would be furnished to you pursuant to your requests under the Freedom of Information Act (FOIA) without charge. As a result, a considerable volume of material from our Headquarters and a number of our field offices has been furnished to you at no charge.

However, after the granting of this fee waiver, you have made additional requests for material which you believe is related to the assassinations and for which fees should also be waived.

The fee waiver granted by Judge Gesell was specific as to scope in that it particularly referred to the materials scheduled for release on January 18, 1978. The Department of Justice letter of March 31, 1978, did not specifically address to what extent the waiver would be applicable. This letter, signed by Mr. Quinlan J. Shea, Jr., on behalf of Attorney General Civiletti, who was then the Acting Deputy Attorney General, described the waiver as being applicable to "records of the Department of Justice compiled pursuant to the investigations of the assassinations of President Kennedy and Dr. Martin Luther King, Jr." It is our understanding that this precise wording was not chosen for the specific purpose

EXHIBIT B

Mr. Harold Weisberg

of deciding an issue as to the scope, since the question of scope was not a matter under consideration at the time. It is clear that a reasonable limit may be placed on the waiver granted after material contained in the records of our main case files of the Kennedy and King assassinations has been processed pursuant to the FOIA.

After a thorough consideration of this matter it has been determined to limit the fee waiver to the material which has already been sent to you, and the following specific items:

- (1) The Dallas Field Office special index (3 X 5 index) to the Kennedy assassination materials;
- (2) A cross-reference (to be prepared) of previously released New Orleans Kennedy assassination documents to those from Dallas and FBI Headquarters (FBIHQ);
- (3) Documents from the Dallas and New Orleans Kennedy assassination materials which you were advised had been previously processed at FBIHQ, but which we are unable to locate in the materials released from FBIHQ;
- (4) Documents concerning either assassination which were referred by the FBI to other government agencies, whenever those documents are returned to the FBI for release.

However, customary duplication and search fees will be assessed for all other materials requested by you such as, but not limited to, your December 4, 1979, request for FBI records furnished to certain Congressional Committees during their investigations of the King and Kennedy assassinations, and your May 22, 1980, request for documents pertaining to the processing and release of Kennedy assassination records previously disclosed under the FOIA.

Among the factors considered in reaching this determination were the amount of material already provided to you at no charge, the relationship of the records requested to the King and Kennedy assassinations investigations, and the thorough examination of both assassinations which

Mr. Harold Weisberg

was recently conducted for the public's benefit at public expense by the United States Congress. With regard to the latter, for example, a report was published and made available to the general public by the House Select Committee on Assassinations. This report released a great deal of information from FBI files which had been reviewed by the committee in its inquiry. Therefore, further release of documents to you would not, in our opinion, be of any measurable benefit to the public.

In view of the above, and in conformance with the requirements set forth in Title 28, Code of Federal Regulations, Section 16.9, processing of material responsive to your pending requests, except as delineated above, is being suspended until you indicate those requests or parts of requests for which you are willing to pay customary search and duplication fees. To assist you in your decision, we are willing to provide you with cost estimates on any materials you designate, before you commit yourself to pay the required fees and tender any advanced deposit which may be necessary under the aforementioned section of the Code of Federal Regulations.

If you so desire, you may appeal this decision to terminate your fee waiver. Appeals should be directed in writing to the Associate Attorney General (Attention: Office of Privacy and Information Appeals), United States Department of Justice, Washington, D. C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

Sincerely yours,

DAVID G. FLANDERS

David G. Flanders, Chief  
Freedom of Information-  
Privacy Acts Branch  
Records Management Division

Mr. David Flanders, chief  
FOIPA Branch  
FBI  
Washington, D.C. 20535

7/29/80

FOIA Request

Dear Mr. Flanders,

In your 7/1/80 letter revoking the fee waiver that had been granted you specifically included my 5/22/80 request.

Item 7 of that request asks for all records pertaining to "Conditions and restrictions, access and distribution of what was disclosed, including duplicate copies, if any, and where, when and how deposited."

Here I further limit what this Item requests and, without prejudice to my rights to recover duplication costs, agree to pay the duplication costs.

The entire request pertains to the FBI's general releases pertaining to the assassination of President Kennedy. The quoted item pertains to any duplicate, public deposits of copies, if any.

Without regard to the other information requested in Item 7, I here request that copies of all records pertaining to the duplicate public deposits, if any, and where, when and how they were made, aside from the FBI's public reading room, be provided.

Sincerely,

  
Harold Weisberg

EXHIBIT C

JAMES H. LESAR  
ATTORNEY AT LAW  
2101 L STREET, N.W., SUITE 203  
WASHINGTON, D. C. 20037  
TELEPHONE (202) 223-8587

August 6, 1980

FREEDOM OF INFORMATION ACT APPEAL

Mr. Quinlan J. Shea, Jr., Director  
Office of Information and Privacy Appeals  
Office of the Associate Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530

Re: May 22, 1980 FOIA request  
of Mr. Harold Weisberg

Dear Mr. Shea:

As you will recall, on December 7, 1977 and January 18, 1978, the Federal Bureau of Investigation released approximately 80,000 pages of its Headquarters records on the assassination of President John F. Kennedy. By letter dated May 22, 1980, Mr. Harold Weisberg made a request for all records pertaining to the decision to release the FBI Headquarters records on President Kennedy's assassination. (A copy of Mr. Weisberg's letter is attached.)

Although more than two months have passed since Mr. Weisberg made his request, he has yet to receive a response. He hereby appeals this de facto denial of his request.

It is obvious that there must be a substantial number of documents that would be responsive to his request. The decision to release such a large volume of records on a subject as important as the assassination of the President of the United States must necessarily have occasioned considerable discussion and surely was not made without generating notes, correspondence, lists, inventories, cost estimates, reports, and memoranda.

I note in this regard, that in his letter to Mr. Weisberg of January 9, 1978, then FBI Director Clarence M. Kelley indicated that the FBI was planning to place copies of the Kennedy Assassination release "in other research facilities, such as the Library of Congress, in the near future." (A copy of Mr. Kelley's letter is attached.) In your letter to me of January 12, 1978, which was submitted to the Court in connection with the litigation of Weisberg v. Bell, et al., Civil Action No. 77-2155, you stated that Director Kelley had "made arrangements for [the Kennedy Assassination release] to be made available at a number of different public locations. . . ." (A copy of your January 12, 1978, letter is

EXHIBIT D

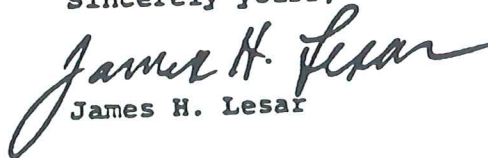
attached.)

Item 7 of Mr. Weisberg's request seeks materials pertaining to where, when, and how the Kennedy Assassination records were deposited. This is meant to include all records pertaining to any suggestion, plan or arrangements for the deposit of the Kennedy Assassination release at "different public locations," regardless of whether actually carried out.

Because such records may have a bearing on the FBI's recent attempt to rescind the waiver of copying costs which the Department granted Mr. Weisberg in 1978, and also because of Mr. Weisberg's advanced age and ill health, I request that you grant this appeal expedited consideration.

Finally, if you have any questions concerning the scope or interpretation of Mr. Weisberg's request, please let me know.

Sincerely yours,

  
James H. Lesar

AUG 23 1980

Mr. Harold Weisberg  
7627 Old Receiver Road  
Frederick, Maryland 21701

Dear Mr. Weisberg:

OUTSIDE SOURCE

This is in response to your Freedom of Information Act request dated July 29, 1980, for material relating to the release of documents pertaining to the assassination of President Kennedy.

Your request, along with requests from other individuals, has been assigned to an employee who is familiar with the material pertaining to the assassination of President Kennedy. These requests are being handled in chronological order based on the date of receipt at FBI Headquarters. Your request will be handled as expeditiously as possible.

Your patience and cooperation in this matter is appreciated.

Sincerely yours,

  
Thomas H. Bresson, Chief  
Freedom of Information-  
Privacy Acts Branch  
Records Management Division

EXHIBIT E

Mr. Thomas H. Bresson, Chief  
FOIPA Branch  
FBI  
Washington, D.C. 20535

8/26/80

Dear Mr. Bresson,

Your letter of the 25 states what is not true, that it "is in response to your Freedom of Information Act request dated July 29, 1980, for material relating to the assassination of President Kennedy."

My request, as the FBI knows very well, is of earlier date, the newest repetition of it being of 5/22/80.

This request also is not for "documents pertaining to the assassination." It states explicitly that it is, rather, for records pertaining to the FBI's general releases of 12/77 and 1/78 of assassination records.

The apparent reason for this newest of the FBI's long series of misrepresentations of my FOIA requests is to stonewall a request compliance with which will disclose that the FBI made deliberate misrepresentations to a federal court.

Having rewritten my request to make it one for JFK assassination records you then, according to your letter of the 25th, added it to your stack of requests for JFK assassination requests, where it certainly will be further stonewalled, and to assure this, "assigned (it) to an employee who is familiar with the material pertaining to the assassination of President Kennedy, which "are being handled in chronological order, <sup>date of</sup> <sup>at</sup> based on the/receipt ~~of~~ FBI Headquarters."

Even for you and the FBI the last is a rather tall one, for you are not and never have "handled in chronological order based on the date of receipt." I have simple requests of more than 12 years that remain ignored. I provided a list of these in 1976 and they also remain ignored, just about all of the two dozen of them.

The JFK assassination was 11/22/63. The information included within the instant request dates to 1977 and is not for assassination information. It therefore does not require the knowledge of the employee familiar with assassination information requests.

EXHIBIT F



The apparent purpose of these newest of your shenanigans is to hide the fact that the FBI, aided by the devotion of the time, effort and cost of not fewer than six Department lawyers, tried unsuccessfully to deceive and mislead Judge Gesell and to defraud me ( and the country through me) in C.A. 77-2155. In this newest of your dirty tricks you have also proven FBI testimony in my C.A. 75-1996, which is still in court, ~~to be~~ <sup>false</sup> testimony. I believe the same is true of FBI testimony to the Congress.

In its efforts to defraud me the FBI informed Judge Gesell that it was making deposits of its general releases throughout the country. It is to this that my instant request pertains, not to the assassination.

In C.A. 75-1996 the FBI provided testimony that in response to the interest of Congressman Don Edwards and his committee it had instituted a first-in, first-out system in which requests were divided into project and non-project cases. This distinction was size, smaller requests being non-project. My instant request is a non-project request.

The FBI's testimony is that an initial search was made within 48 hours, to make this determination and to be able to inform the requester of the number of records involved and their cost. You have now written me twice, pertaining <sup>to</sup> this renewal of an older and ignored and misrepresented request, without once meeting what is required of you by the FBI's 1976 testimony in C.A. 75-1996.

It is my understanding of the size of the FBI's backlog of non-project cases that without these dirty tricks you would have come to and pass this instant request.

If this is true, as I have every reason to believe it is, then it is quite apparent that the dishonesties cited above are intended not only to stonewall my requests and to "stop" me, the explicit FBI determination of 1967, its own word, but also to prevent proving that it deliberately misrepresented to Judge Gesell and Judge Green - and the Congress on more than one occasion.

When I first made this request, in early 1978, the FBI misrepresented it and deceived that Court. To accomplish this it obtained a false and misleading affidavit from SA Horace

P. Beckwith. He was an ideal selection for his career of false and misleading FOIA affidavits because he was an unindicted co-conspirator in the Pat Gray case and thus was very vulnerable. He was nearing retirement and was subject to instant firing and other punishment.

Beckwith's sworn misrepresentations include that I did not request what I had requested. It is not until the FBI prevailed on the basis of sworn falsehood and misrepresentation that I renewed the request. As soon as it did prevail, as you very well know, I renewed this request in a manner that eliminated such false pretenses.

As long as the FBI is immune in such practises it can safely resort to the new dirty tricks outlined above.

Of course the cost is great, but then the FBI's campaign against compliance with the Act is based on wasting enormous sums of tax money, as my not inconsiderable experience leaves without doubt. In this it has the by-product of preventing disclosure of what can embarrass it.

You, personally, have demonstrated skills in these areas. You represented in my C.A. 75-226 that I had filed a request and a lawsuit only because I didn't want what I asked for in the request and included in the complaint. Since then that case has been remanded for the second time, a considerable cost to all parties, thanks to you. It is the first case filed under the amended Act as well as the case over which the investigatory files exemption was amended. (This also is to say that contrary to your cited letter the FBI still has not complied with my 5/23/66 request.)

I am filing a copy of this letter as an appeal, which means that you have again created artificial costs and added to all backlogs. I also ask that you now process this non-project request in its proper chronological sequence. You received it before the end of May, three months ago. If you have got yet reached requests of the date of 5/22 I ask that you inform me of this and when you expect to reach it, by that date.

Sincerely,

  
Harold Weisberg



4 The Library of Congress  
 3 Congressional Research Service  
 5 Washington, D.C. 20540

FEDERAL GOVERNMENT

December 6, 1977

Clarence M. Kelley  
 Director  
 Federal Bureau of Investigation  
 Washington, D.C. 20535

Dear Mr. Director:

We would greatly appreciate receiving as soon as possible a copy of the F.B.I.'s 80,000 page report entitled, "The Assassination of President John F. Kennedy." I understand that the Bureau can supply the Service one copy of this report at no cost. Our receipt of it would facilitate our continuing assistance to the House Select Committee on Assassinations.

Please telephone Mr. Stephen A. Langone, head of the Civil Rights section in our Government Division, concerning the transmittal of a copy of this report to us. Mr. Langone can be reached on 426-5834.

Thank you so much for the Bureau's prompt attention to this request.

Sincerely,

*Gilbert Gude*  
 Gilbert Gude  
 Director

1 ENCLOSURE

EX-111

REC-85

*GG/rla*  
*Thomas Jeff (Bely)*  
*Am A5009A*  
 27 BOXES OF ASSASSINATIONS  
 INVESTIGATION FILES  
 DELIVERED TO STEPHEN A. LANGONE  
 19-78 kcl

1-31-78  
 2-5-1977

FOIA

EXHIBIT G

56 FEB 14 3 1978

LIBRARY OF CONGRESS RECEIPT FOR JOHN F. KENNEDY  
ASSASSINATION INVESTIGATION FILES, DELIVERED ON  
1-19-78:

Received 27 boxes of  
files.

Stephen A. Langone  
Library of Congress  
426-5834

19th  
Jan  
78

ENCLOSURE

7750 98A

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

G. Robert Blakey, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action Number  
 ) 81-2194  
 Department of Justice, et al., )  
 )  
 Defendants. )

DEFENDANT FEDERAL BUREAU OF INVESTIGATION ANSWERS  
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

I, John N. Phillips, being duly sworn, depose and  
say as follows:

(1) I am a Special Agent of the Federal Bureau of  
Investigation (FBI), assigned in a supervisory capacity to the  
Freedom of Information-Privacy Acts (FOIPA) Section, Records  
Management Division, FBI Headquarters (FBIHQ), Washington, D. C.  
The statements made herein are based upon my familiarity with  
the procedures followed in processing requests for information  
received pursuant to the Freedom of Information Act (FOIA) and  
upon information furnished to me by other individuals in the  
FBI.

(2) In my official capacity I have become aware of  
plaintiff's various FOIA requests which are the subject of  
instant litigation. Pursuant to Rule 33 of the Federal Rules  
of Civil Procedure, I am hereby providing the defendant FBI's  
answers, objections and/or responses to plaintiff's first set  
of interrogatories.

Interrogatory Number 1: What is the actual per page cost of the  
FBI of xeroxing documents?

Answer: No analysis of the FBI's cost of xeroxing documents in  
response to FOIPA requests has ever been conducted. Title 28,  
Code of Federal Regulations, Section 16.9 establishes a cost of

EXHIBIT H

10¢ per page for copies of documents sought under the FOIPA. An analysis of the FBI's operations regarding responses to FOIPA requests received at FBIHQ and at FBI Field Offices would have to be conducted to ascertain the actual per page cost of xeroxing documents responsive to FOIPA requests. Such a study would be unduly burdensome to conduct and irrelevant as the 10 cents per page copying cost is established by the Department of Justice, of which the FBI is a component.

Interrogatory Number 2: Please give a complete breakdown of each component of the per page cost to the FBI of xeroxing documents.

Answer: See response to interrogatory number 1.

Interrogatory Number 3: How many requesters have sought copies of the FBI files on Lee Harvey Oswald and Jack Ruby sought by plaintiff in this action?

Answer: The FBI has received eight requests for the entire files regarding Lee Harvey Oswald and Jack Ruby. The FBI has also received one hundred fifty nine (159) requests for various documents concerning the assassination of John F. Kennedy, some of which may have involved documents in the Lee Harvey Oswald and Jack Ruby files.

Interrogatory Number 4: Were the records on Lee Harvey Oswald and Jack Ruby sought by plaintiff included as part of the general releases of FBI Headquarters records on the assassination of President Kennedy which the FBI made on December 7, 1977 and January 18, 1978?

Answer: Yes

Interrogatory Number 5: How many sets of Kennedy assassination records did the FBI produce for the December 7, 1977 and January 8, 1978, releases?

Answer: Ten

Interrogatory Number 6: Please list each requester who has been supplied the records sought by plaintiff in this action and state:

- a. the date on which the records were supplied;
- b. the number of pages supplied to the requester;
- c. the total amount paid by each requester for the copies received.

Answer: The following eight requesters have received the records sought by plaintiff: Mr. Harold Weisberg received 58,754 pages of material on January 18, 1978, 40,001 pages of material on April 13, 1978 and 21,993 pages of material on January 5, 1979. Mr. Weisberg did not pay for any of this material pursuant to a court order dated January 16, 1978, in the case entitled Harold Weisberg v. Griffin Bell, United States District Court, District of Columbia, Civil Action Number 77-2155.

The Associated Press, United Press International, NBC News, and the Washington Post all received 40,001 pages of material on December 7, 1977 and 58,754 pages on January 18, 1978 and paid \$9060.50 for this material.

Newsday received 40,001 pages of material on December 7, 1977, and paid \$4,000.10.

Southern Louisiana University received 40,001 pages on February 6, 1978 and 58,754 pages on March 1, 1978 at a cost of \$9060.50.

The Library of Congress received 98,755 pages of material on January 19, 1978, at no charge. This material was provided to the Library of Congress without charge to assist the House Select Committee on assassinations investigation into the assassination of President John F. Kennedy.

As stated in the response to interrogatory number 3 there have been 159 additional requests for various documents relating to the Kennedy assassination. The FBI objects to providing their identities and the dates and number of documents supplied to each. Their identity, number of pages, and dates supplied are irrelevant to the issue of plaintiff's fee waiver, or any other fact at issue in this litigation, and the requirement of their production would be unduly burdensome for the FBI.

Interrogatory Number 7: Please list each requester who has received a waiver or reduction of copying costs for Kennedy assassination document.

Answer: As stated in response to interrogatory number 6 Harold Weisberg received a waiver of fees for this material pursuant

to a court order dated January 16, 1978, in the case entitled Harold Weisberg v. Griffin Bell, United States District Court, District of Columbia, Civil Action Number 77-2155.

The Library of Congress was provided its copies at no cost so that they would be available to assist the House Select Committee on Assassinations investigation of the assassination of President Kennedy.

Interrogatory Number 8: Please state the total amount received by the FBI to date for copies of Kennedy assassination records.

Answer: The FBI objects to this question on the grounds that the amount received by the FBI to date for duplication of the Kennedy Assassination material is irrelevant to the issue of plaintiff's fee waiver and would be unduly burdensome on defendant to produce. However, except as noted in response to interrogatory number 7, any requester receiving over 250 pages of material, paid at a rate of 10¢ per page. In addition, any individual requesting copies of material from the Reading Room prior to February 17, 1981, was charged at the rate of 10¢ per page, no matter how many pages were requested.

Interrogatory Number 9: What was the total cost to the FBI of processing and producing the Kennedy assassination records released to the public on December 7, 1977 and January 18, 1978?

Answer: A definitive figure as to the total cost to the FBI of processing and producing the Kennedy assassination records released to the public on December 7, 1977 and January 18, 1978 is not available. A conservative estimate of the cost would be \$320,459.

Interrogatory Number 10: Please supply a breakdown of the figure given in response to Interrogatory 9.

Answer: The personnel costs for processing through November 17, 1977, was \$187,644. The personnel costs for processing from October 1, 1977 to February 28, 1978, were \$34,060. The dates mentioned in this response, though beyond the scope of the interrogatory, contain the only analysis of the processing costs available. In addition, duplication costs at 10 cents per page as allowed by Title 28, Code of Federal Regulations, Section



16.9 are approximately \$98,755.

Interrogatory Number 11: The September 12, 1979, letter of David G. Flanders to plaintiff (complaint Exhibit D) states that "in balancing the potential public benefit in this instance against the concomittant expenditure of public funds, we have determined that under reasonable standards the interests of the general public appear more likely to be served by the preservation of public funds". Please identify:

- a. the factors which were considered in weighing "the potential public benefit";
- b. the "reasonable standards" employed in determining that the interests of the general public "appear more likely to be served by the preservation of public funds"

Answer: No documentation exists as to the factors which were considered by FBI in denying plaintiff's request for a fee waiver. The primary factors in that denial would have been that the material had been previously processed for other requesters, all of whom (with the exception of Mr. Weisberg) paid, and, secondly, that the material had already been placed in the "public domain" through these paid releases in addition to its inclusion in the FBI's FOIPA Reading Room.

Interrogatory Number 12: The August 21, 1980, letter of Thomas H. Bresson to plaintiff (complaint Exhibit N) states that two documents pertaining to Rogelio Cisneros were referred to other agencies. Please identify each document referred to by date, FBI file and serial number, and title or caption and state:

- a. the agency to which the document was referred;
- b. the date of the referral;
- c. the action taken by the referrant agency, if any.

Answer: By letter dated April 25, 1978, two documents were referred to the Central Intelligence Agency (CIA). Document 1, serial 105-82555-4270 a Miami airtel to Director, FBI captioned Lee Harvey Oswald; Document 2, serial 105-82555-4263A San Juan airtel to Director, FBI captioned Lee Harvey Oswald.

The CIA has not yet made a response to these referrals and by letter dated February 20, 1980, the enclosure behind file to serial 105-82555-5366 was referred to the Secret Service.

This document is a Secret Service letter to Mr. J. Lee Rankin dated April 24, 1964, with enclosures. The Secret Service returned this document stating it could be released in its entirety. This document was released to the plaintiff by FBI letter dated November 17, 1981.

Prior to the transmittal of the August 21, 1980, FBI letter to plaintiff the April 25, 1978, letter to the CIA was counted only as one referral and not as a referral of two documents. This error was noted in the preparation of the January 31, 1981, FBI letter to plaintiff which contains the correct number of documents referred; "three".

Interrogatory Number 13: The January 30, 1981, letter of Thomas H. Bresson, to plaintiff states that three documents relating to Rogelio Cisneros were referred to other agencies. Please identify each of these documents by date, FBI file and serial number, and title or caption and state:

- a. the agency to which the document was referred;
- b. the date of the referral;
- c. the action taken by the referrant agency, if any.

Answer: See response to interrogatory number 12.

Interrogatory Number 14: What is the hourly wage of the FBI employee who monitors the FBI Reading Room while researchers examine FBI documents there?

Answer: The annual salary and GS rating of the employee monitoring the FBI's FOIA Reading Room is GS-4, \$11,490.

Interrogatory Number 15: What is the annual cost to the FBI of maintaining the FBI Reading Room?

Answer: The defendant objects to this question on the grounds that the cost of maintaining the FBI FOIA Reading Room is irrelevant to any fact at issue in this litigation and, secondly, that to establish this figure, an amortization study would have to be conducted regarding building cost, utility cost, maintenance fees, etc. Such a study would be unduly burdensome for defendant to produce.

Interrogatory Number 16: How much money did the FBI spend on public relations in the years 1977-1980? (Please give a breakdown of the annual figure).

Answer: The defendant objects to this question on the grounds that the amount of money spent by the FBI on public relations in the years 1977-1980 is irrelevant to any fact at issue in this litigation. Secondly, the FBI has no public relations budget per se. Various facets of the FBI's activities which might be considered by plaintiff to be "public relations", are spread throughout the various divisions at FBI Headquarters and Field Offices and, depending upon plaintiff's definition of "public relations," a detailed analysis of each component division of FBIHQ and each field office would have to be conducted. The defendant contends that such an analysis would be unduly burdensome.

John N. Phillips  
John N. Phillips  
Special Agent  
Federal Bureau of Investigation  
Washington, D. C.

Subscribed and sworn to before me this 19<sup>th</sup> day of January, 1982.

John N. Phillips  
Notary Public

My Commission expires April 22, 1984.

### FEDERAL BUREAU OF INVESTIGATION Records/Operations Sections

9/19, 1986

- Name Searching Unit, 4989, TL# 121
- ~~Name Searching Unit, 4654, TL# 225~~
- Special File Room, 5991, TL# 122
- Forward to File Review, 5447, TL# 143
- Attention \_\_\_\_\_
- Return to W. J. Martin 695-4314 5767  
Supervisor, Room, TL#, Ext.

**Scope of Search:** (Check One)

- Automated Data Base (ADB)(Individual Born 1962 and After)
- Restricted Search (Active Index - 5 & 20)
- Restricted Search (Active & Inactive Index - 5 & 30)
- Unrestricted (Active & Inactive Index)

**Type of Search Requested:** (Check One)

- All References (Security & Criminal)
- Security Search
- Criminal Search
- Main \_\_\_\_\_ References Only

**Special Instructions:** (Check One)

- Exact Name Only (On the Nose)
- Buildup  Variations
- Restricted to Locality of \_\_\_\_\_

Subject Public deposits of JFK Assassination

Birthdate & Place records

Address \_\_\_\_\_

Localities \_\_\_\_\_

R# \_\_\_\_\_ Date 9-21 Searcher Initials Jew

Prod. \_\_\_\_\_

FILE NUMBER	SERIAL	A D B	ACTIVE	INACTIVE	DATE ON CARD M/Y
	NR		✓		
	NR			✓	

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG and )  
JAMES H. LESAR, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 U.S. DEPARTMENT OF JUSTICE, )  
 )  
 Defendant. )  
\_\_\_\_\_ )

Civil Action No. 86-1547

ORDER

This matter having come before the Court on defendant's motion for summary judgment, and the Court having considered the memoranda supporting and opposing the motion and the entire record, and it appearing to the Court that there is no genuine issue as to any material fact and defendant is entitled to judgment as a matter of law, it is by the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 1986,

ORDERED that summary judgment is granted in favor of defendant; and it is further

ORDERED that this action is dismissed with prejudice.

\_\_\_\_\_  
GERHARD A. GESELL  
United States District Judge