APPENDIX TO BRIEF FOR APPELLANT

IN THE

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA

No. 86-5289

HAROLD WEISBERG,

Appellant,

v.

WILLIAM H. WEBSTER, et al.,

Appellees

No. 86-5290

HAROLD WEISBERG,

Appellant,

v.

FEDERAL BUREAU OF INVESTIGATION, et al.,

Appellees

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

---

Harold Weisberg
7627 Old Receiver Road
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Phone: (301) 473-8186

Pro Se

EXHIBIT 1

0090/1	78	0322	2	21	78	2	895	1				504 ~~5053~~		78	0322

PLAINTIFFS

HAROLD WEISBERG

DEFENDANTS

WILLIAM H. WEBSTER, Director, Federal Bureau of Investigation

FEDERAL BUREAU OF INVESTIGATION

GRIFFIN BELL, Attorney General of the United States

U.S. DEPARTMENT OF JUSTICE

CAUSE

FOIA 5 USC 552

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CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	
				JS-6	

DATE	NR.	PROCEEDINGS
1978		
Feb	24	COMPLAINT; appearance.
Feb	24	SUMMONS (5) & copies (5) of complaint issued. U.S. Atty. ser 2-28-78. Defts Webster & FBI ser 2-28-78. Justice & Atty. Gen ser 3-2-78.
Mar	30	ANSWER of defts to complaint; exhibits (3); appearance of Daniel J. Metcalfe; c/m 3-30-78.
Mar	30	CALENDARED. CD/N
Apr	07	REASSIGNMENT of case from Judge Oberdorfer to Judge Smith.
1979		
Mar	22	STATUS CALL: Oral motion to consolidate this case with Civil Action No. 78-420, granted. (Rep: D. Copeland) SMITH, J.
Apr	03	NOTICE of defts of filing of proposed order of consolidation.
Apr	04	ORDER of consolidation for all purposes, pursuant to Rule 42(a), FRCP, consolidating CA 78-322 & CA 78-420. (N) SMITH, J.
1980		
Mar	25	STATUS CALL: Further Status Call set for 9:30am on 10-14-80. (Rep: Dawn Copeland) SMITH, J.
Apr	30	CHANGE of address of counsel for ptlf. to 2101 L Street, N.W. Suite 203. CD/N
Oct	14	STATUS CALL. Further status call 9:30 A.M., Dec. 2, 1980. (Rep. Dawn Copeland) Smith, J.
1981		
Jan	07	STATUS CALL: Further Status Call set for 2-11-81 at 9:30A.M. (Rep: Dawn Copeland) SMITH, J.
Feb	17	STATUS CALL: Further Status Call set for 9:30 A.M., May 18, 1981. Rep: Dawn Copeland SMITH, J.
May 27		STATUS: Report by counsel made to the Court with a further status call to be set at a later time. (Rep: D. Copeland) SMITH, J.
Sept 21		TRANSCRIPT of Proceedings taken on 2-17-81; Court's copy; pps 1-7; Rep: Dawn T. Copeland.
Dec 08		APPEARANCE of Henry I. LaHaie for defts. Cal/N.
Dec 10		STATUS CALL: Further status call March 10, 1982. Rep: Dawn Copeland SMITH, C.J.
1982		
Mar 2		MOTION by defts. concerning the adjudication of certain exemption claims; Memo of P&A's; Declaration of John N. Phillips.

(SEE NEXT PAGE)

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CIVIL DOCKET CONTINUATION SHEET

FBI—MAR—7-14-80 TOM 4392

PLAINTIFF	DEFENDANT	DOCKET NO. 78-0322
AROLD WEISBERG	WILLIAM H. WEBSTER, et al.	PAGE 1 OF ___ PAGES

DATE	NR.	PROCEEDINGS
982		
lar 10		STATUS CALL: further status call and motions hearing set for 9:30 A.M. on 3/25/82. (Rep: D. Copeland) SMITH, J.
r 15		OPPOSITION by Pltf. to defts' motion concerning the adjudication of certain exemption claims; Affidavit of Harold Weisberg; Affidavit of James H. Lesar.
r 22		REPLY by defts. to pltff's. opposition to defts' motion concerning the adjudication of certain exemption claims; Exhibit A w/ Attachments 1 through 4; Exhibit B.
r 25		MOTION by deft. to allow selective Vaughn Index, heard and taken under advisement. (Rep: Dawn Copeland) SMITH, J.
or 05		SETTLEMENT PROPOSAL by Pltf.; Attachments 1, 2 & 3.
r 15		RESPONSE by defts' to pltf's. settlement proposal; Declaration of John N. Phillips; Exhibits 1 through 5.
ay 03		MOTION by defts. for partial summary judgment; Memo of P&A's; Declaration of John N. Phillips; Statement of material facts.
y 12		MOTION by Pltf. for extension of time to and including May 31, 1982, within which to oppose defts' motion for partial summary judgment.
y 18		ORDER filed May 18, 1982, that pltf's. time for opposing deft's. motion for partial summary judgment is extended to and including May 31, 1982. (N) SMITH, C. J.
ne 02		MOTION of plaintiff for extension of time within which to file opposition to defendants' motion for partial summary judgment.
n 04		MOTION by Pltf. for extension of time within which to file opposition to defts' motion for partial summary judgment; EXHIBIT (Opposition)
n 7		MEMORANDUM by defts. advising the Court of Related Case in this District; Exhibits A through E.
n 9		ORDER filed June 8, 1982, granting pltf's. motion for extension of time within which to file opposition to deft's. motion for partial summary judgment to and including June 3, 1982. (N) SMITH, J.
n 14		MOTION by Pltf. for an order compelling defts. to seek joinder of copywright holders pursuant to Rule 19(a); Memo of P&A's.
un 14		AS OF JUNE 3, 1982, OPPOSITION by Pltf. to defts' motion for partial summary judgment; Statement of genuine issue;Affidavit of James H. Lesar w/Attachments 1; Affidavit of Harold Weisberg w/Exhibits 1 through 18, 19A and 19B.

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CIVIL DOCKET CONTINUATION SHEET

FPI—MAR—7-14-80-70M-4398

PLAINTIFF	DEFENDANT	DOCKET NO. 78-322
HAROLD WEISBERG	F. B. I.	PAGE 2 OF ____ PAGES

DATE	NR.	PROCEEDINGS
1982		
Jun 17		MOTION by deft. to strike and to have its statement of material facts deemed admitted; Memo of P&A's.
Jun 21		RESPONSE by Pltf. to defts' memorandum advising the Court of related case in this District.
Jun 28		RESPONSE by deft. to pltf's. motion for an order compelling the deft. to seek joinder of copyright holders pursuant to Rule 19(a).
July 1		STIPULATION extending pltff's time to respond to Defts' motion to strike and to have its statement of material facts deemed admitted; extended to and including July 23, 1982 - APPROVED. (N) SMITH, C. J.
Jul 02		REPLY by Deft. to pltf's. opposition to the motion for partial Summary judgment; Exhibit A & B.
Jul 8		REPLY by Pltf. to defts' response to pltf's. motion for an order compelling defts. to seek joinder of Copyright Holders pursuant to Rule 19(a).
Jul 8		NOTICE by Pltf. of filing; Attachment.
Jul 9		ORDER granting pltff's motion for an Order compelling defts. to seek the joinder of a copyrightholder in this case and in C.A. 78-420, further ordered that defts. seek joinder sought by pltff. in these cases from Dallas File No. 89-43-1A81, which is being withheld on grounds that its release is barred by the Copyright Act 17 USC S 101, et seq., and exemption 3 of the FIA 5 USC S 552. (N) SMITH, C. J.
Jul 23		NOTICE by pltff. of filing of affidavit of Harold Weisberg; affidavit of Harold Weisberg; attachments 1-2; exhibits 1-11.
Jul 23		OPPOSITION by pltff. to deft's motion to strike and to have its statement of material facts deemed admitted.
Jul 26		AMENDED STATEMENT of genuine issues of material fact in dispute by pltff.
Jul 26		MOTION by pltff. for order compelling defts. to provide pltff. with photographic copies of all movie films and still photographs of the FBI's Dallas and New Orleans field offices; memorandum of points and authorities in support.
Aug 5		MOTION and MEMORANDUM by deft. of points and authorities in support of an extension of time.

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO 78-0322
HAROLD WEISBERG	F.B.I.	PAGE 3 OF ___ PAGES

DATE	NR.	PROCEEDINGS
82 ig	9	ORDER filed 8/6/82 that deft's time to serve its response to pltff's motion to compel is extended to and including 8/19/82. SMITH, C.J.
ig	18	MOTION (unopposed) by deft to Stay Court's Order of 7-8-82, pending settlement negotiations between pltf and the copyrightholder; exhibit A&B.
ig	19	OPPOSITION by deft to pltf's motion for Order compelling deft with photographic copies of all movie films and still photographs of the FBI's Dallas and New Orleans Field Office; seventh declaration of John N. Phillips.
ig	26	ORDER filed 8/25/82 granting deft's motion to stay Court's order of 7/8/82 pending settlement negotiations between pltff. and copyrightholder. (N) SMITH, J.
ep	2	REPLY by deft. to pltff's opposition to deft's motion to strike and to have its statement of material facts deemed admitted; exhibits A-B.
ep	3	ERRATA by deft.; attachment.
pt 10	4	MOTION by deft for a hearing.
ct	4	MOTION of deft. for partial summary judgment and motion of deft. to strike heard, argued and taken under advisement with counsel to be notified at later time. (Rep: D. Copeland) SMITH, J.
t	13	NOTICE by pltff. of filing affidavits; attachment (affidavits).
ct 29		MEMORANDUM filed 10/27/82. (N) SMITH, J.
ct 29		ORDER filed 10/27/82 denying defts' motion for partial summary judgment. (N)(See order for details.) SMITH, J.
ec 3		INTERROGATORIES (first set) of pltff to defts.
ec 6		INTERROGATORIES (first set written) of deft. to pltff.
ec 6		REQUEST (first) of deft for production of documents to pltff.
ec 6		TRANSCRIPT OF PROCEEDINGS from 10-5-82; pages 1 thru 48-A; (Rep: Dawn T. Copeland) COURT COPY
ec 21		REQUEST of pltff for production of documents.
ec 21		REQUEST of pltff for admissions.

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 78-322
WEISBERG	WEBSTER, et al.	PAGE 4 OF ____ PAGES

DATE	NR.	PROCEEDINGS
1982		
Dec 21		MOTION for extension of time within which to answer or otherwise respond to defts' interrogatories and request for production of documents.
1983 Jan 3		MOTION AND MEMORANDUM OF P&A'S of deft in support of an extension of time.
Jan 17		MOTION by pltff. for a protective order; memorandum of points and authorities in support; attachment 1.
Jan 20		RESPONSE by deft. to pltff's request for production of documents; attachments A-B.
Jan 20		RESPONSE by deft. to pltff's request for admissions.
Jan 24		RESPONSE by deft. to pltff's first set of interrogatories.
Jan 27		MOTION by deft. for a hearing.
Jan 27		OPPOSITION by deft. to pltff's motion for a protective order.
Feb 4		ORDER denying pltff's motion for a protective order and that pltff. shall answer deft's interrogatories and requests for production of documents within twenty (20) days from date of order and denying deft's request for expenses, including attorneys' fees incurred in opposing pltff's motion. (N) SMITH, J.
Feb 7		MOTION of pltf. for an order compelling defts. to answer request for admissions.; P&A's.
Feb 18		OPPOSITION by deft. to pltff's motion for an order compelling deft. to answer the request for admission.
Feb 22		MOTION by pltf. for extension of time to respond to defts discovery.
Mar 8		MOTION by pltff. to strike all sworn statements by FBI Special Agent John N. Phillips and motion to hold evidentiary hearing on pltff's charges that defts. have submitted false intormation to the Court; P&A's; affidavit of pltff.; attachment.
Mar 8		RESPONSE by pltff. to defts' first request for production of documents; affidavit of pltff.
Mar 8		OBJECTIONS by pltff. to defts' interrogatories.
Mar 15		MOTION of deft for an order compelling discovery; P&A's.
Mar 15		ERRATUM by deft to interrogatories propounded on 12-6-82.

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 78-322
WEISBERG	WEBSTER, et al.	PAGE 5 OF ____ PAGES

DATE 1983	NR.	PROCEEDINGS
Mar 21		MOTION of pltf. to compel answers to interrogatories; P&A's.
Mar 21		MOTION of pltf. Harold Weisberg for an order compelling defts. to produce documents requested by item No. 1 of pltf's request for production of documents; P&A's.
Mar 21		MOTION of deft. for an extension of time to serve its response to pltf's motions; and memorandum of points and authorities.
Mar 28		OPPOSITION by pltf. to defts' motion for an order compelling discovery.
Mar 29		OPPOSITION by deft. to pltf's motion to strike and to hold an evidentiary hearing; Exhibits A-B.
Apr 4		OPPOSITION of defts. to pltfs motions for orders compelling deft. to produce documents and to answer interrogatories.
Apr 6		REPLY of deft. to pltf's opposition to deft's motion for an order compelling discovery; Exhibit A.
Apr 8		HEARING on motions of pltf to compel admissions and answers to certain interrogatories and motion of deft to compel heard, argued and taken under advisement; Rep. D. Copeland SMITH, J.
Apr 12		MOTION of pltf. for leave to file April 10, 1983 affidavit of Harold Weisberg; memorandum of P&A's; EXHIBIT (affidavit w/exhs.).
Apr 15		ORDER filed 4/13/83 denying pltff's Motions to Compel Deft to answer his request for admissions; further that within 30 days of the date of this Order deft. shall serve upon pltff and file with the Court answers to interrogatories 12(b), 32, and 33; Pltff shall serve upon deft. and file with the Court responsive answers to deft's interrogatories and request for production of documents, providing finally his contentions concerning the adequacy of the FBI search; Deft. shall submit an affidavit within 10 days from the date of this Order, detailing expenses, including attorney's fees, which were incurred in obtaining the Order compelling pltff to answer interrogatories and produce documents. (N) SMITH, J.
Apr 18		ORDER granting pltf's motion for leave to file the April 10, 1983 affidavit of Harold Weisberg. (N) SMITH, J.
Apr 18		AFFIDAVIT of Harold Weisberg; exhibits 1 through 16.
Apr 18		MEMORANDUM of pltf to the Court.

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DATE	NR.	PROCEEDINGS
1983		
Apr 25		APPLICATION of deft for expenses incurred in obtaining the order compelling pltf to answer its discovery requests; Declaration of Henry I. LaHale; Exh. 1.
Apr 27		REQUEST (second) by pltf. for production of documents to defts. Attachments 1-5.
Apr 29		ORDER filed 4/28/83 that pltff's motion for an order compelling defts to produce documents is denied; pltff's motion to strike sworn statements of FBI Agents John Phillips; pltff's motion for evidentiary hearing is also denied. (N) SMITH, J.
Apr 29		ORDER filed 4/28/83 awarding expenses to deft under Rule 37(a)(4), FRCP in the amount of $684.50; and that pltf shall pay said amount to the United States within 60 days from date of this Order. (See order for further details) (N) SMITH, J.
May 4		INTERROGATORIES (second set) by pltf to defts; attachment.
May 13		MOTION by deft and memorandum of points and authorities in support of an extension of timeto file answers to interrogatories 12(a), 32 and 33 of pltf's first set of interrogatories.
May 13		ANSWERS by deft Dallas Field Office to interrogatories 12(a), 32 and 33 of pltf's first set of interrogatories.
May 16		ANSWERS of deft New Orleans Field Office to interrogatories 12(a), 32 and 33 of pltf's first set of interrogatories.
May 18		ORDER filed 6/16/83 that deft's time to serve the responses of its New Orleans Field Office to interrogatories Nos. 12(a), 32 and 33 of pltf's first set of interrogatories is extended to, and including May 18, 1983. SMITH, J.
May 18		MOTION by deft pursuant to Rule 37 for dismissal of these consolidated actions; memorandum of points and authorities in support.
May 20		MOTION by deft and memorandum of points and authorities in support of a stay of pltf's discovery;
May 31		MOTION of pltfs for extensions of time to oppose defts motions for a stay of pltf's discovery and for dismissal of these actions.
Jun 6		MOTION of pltf for reconsideration; memorandum of P&A's.
Jun 6		OPPOSITION of pltf to defts motion for a stay of pltf's discovery.

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 78-322
EISBERG	WEBSTER, et al.	PAGE 7 OF ____ PAGES

DATE	NR.	PROCEEDINGS
983		
an 6		OPPOSITION of pltf to defts motion to dismiss.
an 6		NOTICE by pltf of filing of April 29, 1983 affidavit of Harold Weisberg;Declaration of Harold Weisberg; attachments.
an 6		NOTICE by pltf of filing of May 5, 1983 affidavit of Harold Weisberg; Affidavit; Exhibits 1 through 16.
an 6		NOTICE by pltf of filing of May 28, 1983 affidavit of Harold Weisberg; Affidavit.
n 20		OPPOSITION of deft to pltf's motion for reconsideration.
n 21		REPLY of deft to pltf's opposition to deft's dismissal motion.
n 23		REPLY of deft to pltf's opposition to its motion for a stay of pltf's discovery.
ul 21		TRANSCRIPT OF PROCEEDINGS (7): of 3/22/79, pp 4-6; 3/25/80, pp 1-5; 10/14/80, pp. 1-10; 1/7/81, pp 1-7; 5/27/81, pp 1-4; 12/10/81, pp. 1-5; 3/10/82, pp 1-7; 3/25/82, pp. 1-10; Rep. Dawn T. Copeland. (Filed in CA 78-0420)
g 29		NOTICE of pltf of filing of June 13, 1983 affidavit of Mr. Harold Weisberg; Exhibits 1-14; and Addendum of June 17, 1983.
g 29		NOTICE of pltf of filing of July 16, 1983 affidavit of Mr. Harold Weisberg; attachment.
g 29		NOTICE of pltf of filing of July 6, 1983 affidavit of Mr. Harold Weisberg; attachment.
ig 29		NOTICE of pltf of filing of July 22, 1983 affidavit of Mr. Harold Weisberg; Exhibits 1-36.
:t 19		TRANSCRIPT OF PROCEEDINGS of 4-8-83; pages 1-61; (Rep: Dawn T. Copeland) (sb)
ov 9		HEARING on pltf's motion to reconsider this Court's Orders and deft's motions to dismiss and stay further Discovery heard, argued and taken under advisement, with counsel to be notified. Rep: D. Copeland. SMITH, J. (sb)

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CC 111A (Rev. 1-75) CASE CLOSED CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO 78-322
WEISBERG	WEBSTER, et al.	PAGE 8 OF ___ PAGES

DATE	NR.	PROCEEDINGS
1983		
Nov 23		MEMORANDUM filed 11-18-83. (N) SMITH, J. (sb)
Nov 23		ORDER filed 11-18-83 that pltf's motion for reconsideration of this Court's orders, or in the alternative, to amend this Court's orders to certify for interlocutory appeal, is DENIED; Deft's motion to dismiss these consolidated actions is granted; Cases are DISMISSED with prejudice. (See for details)SMITH, J. (sb)
Dec 2		APPLICATION of deft for expenses incurred in prosecuting its dismissal motion under Rule 37(b)(2); Declaration of Henry I. LaHaie; Exhibit 1. (sb)
Dec 15		OPPOSITION by pltf to deft's application for expenses in prosecuting its dismissal under Rule 37(b)(2) (sb)
Dec 20		REPLY of deft to pltf's opposition to its application for expenses incurred in prosecuting the dismissal motion under Rule 37(b). (s
Dec 22		ORDER filed 12-21-83 (1) That deft is awarded expenses under FRCP 73(b)(2) in the amount of $1,053.55; (2) Pltf and his counsel James H. Lesar, shall pay said amount to the United States within 20 days from date of this Order; and (3) such payment be made by check payable to "Treasurer of the united States of America and shall be sent to deft's counsel. (N) SMITH,J.(s
Dec 27		APPLICATION of deft for Entry of Judgment. (sb)
1984		
Jan 10		JUDGMENT in favor of deft. Federal Bureau of Investigation against pltf Harold Weisberg in the sum of One Thousand Fifty-Three Dollars and Fifty-Five Cents ($1,053.55) plus interest; expenses in the sum of Six Hundred Eighty-Four Dollars and Fifty Cents ($684.50) plus interest; directing pltf. to pay said amount to the United States within Sixty (60) days from date of this order; Approved. (N) SMITH, J. (sb)
Jan 20		MOTION of deft to amend judgment; Memorandum of P&A's. (sb)
Jan 23		NOTICE OF APPEAL by pltf from order entered November 23, 1983. $5.00 filing fee and $65.00 docketing fee paid and credited to U.S. Copies mailed to: Henry LaHaie. (sb)
Jan 24		COPIES of docket entries and notice of appeal transmitted as preliminary record to USCA. (USCA# 84-5058) (sb)

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DATE	NR.	PROCEEDINGS
984		
an 31		AMENDED JUDGMENT ordering that the pltf take nothing; that these actions be dismissed with prejudice; that deft. F.B.I. recover from pltf Harold Weisberg and his attorney, James H. Lesar, the sum of one thousand fifty-three dollars and fifty-five cents ($1,053.55) plus interest from the date of judgment at the legal rate of 10.1% computed daily and compounded annually until paid in full; directing that deft F.B.I. recover from pltf Harold Weisberg the sum of six hundred eighty-four dollars and fifty cents ($684.50) plus interest from the date of judgment at the legal rate of 10.1% computed daily and compounded annually until paid in full. Approved. (Signed 1-30-84) (N) SMITH, J. (sb)
eb 2		MOTION of pltf to vacate, or, in the alternative, to alter the amended judgment filed on 1-31-84; P&A's. (sb)
eb 2		OPPOSITION of pltf to defts' motion to amend judgment. (sb)
'eb 9		MOTION of pltf for stay of proceedings to enforce judgment pending disposition of pltf's motion to vacate or to alter or amend amended judgment filed 1-31-84; P&A's; Attachment 1. (sb)
'eb 13		OPPOSITION of defts to pltf's motion to vacate or, in the alternative, to alter the amended judgment entered on 1-31-84. (sb)
'eb 16		ORDER filed 2/14/84 denying pltfs motion to stay enforcement of the judgment; denying pltfs motion to vacate or alter the amended judgment. (N) SMITH, J.
Feb 21		REPLY of pltfs to defts' opposition to pltf's motion to vacate or, in the alternative, to alter the amended judgment entered on January 31, 1984. (sb)
ar 30		APPEARANCE of Cornish F. Hitchcock as counsel for James Lesar. (sb)
ar 30		NOTICE OF APPEAL by Harold Weisberg and James H. Lesar from the amended judgment on 1-31-84 and order entered 2-16-84. No fee, pursuant to F.R.A.P. 4(a)(4). Copies mailed to Christine R. Whittaker. (sb)
pr 2		COPY of docket entries and notice of appeal transmitted as preliminary record to USCA. (USCA# 84-5201)
May 8		TRANSCRIPT of Proceedings taken on 11/9/93 before Judge Smith. Pages 1-27. (Rep: Dawn T. Copeland) (vajm)
ept 24		RECORD ON APPEAL delivered to USCA; receipt acknowledged. 10/15/84 (ef)

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO 78-322
Harold Weisberg	FBI et al	10 PAGE ___ OF ___ PAGES

DATE	NR.	PROCEEDINGS
1985		
Mar 22		PRAECIPE entering appearance of Renee M. Wohlenhaus as counsel of record and removing Henry I. LaHaie. (hls)
Mar 13		CERTIFIED copy filed 3/13/85 from USCA dated 12/7/84 affirming in part and remanding case. (opinion attached) (hls)
Mar 27		HEARING on mandate of 12/7/84; Gov't given until 4/29/85 to file brief on issues with respect to atty's fees award and costs with pltf until 5/20/85 to respond; Further hearing set for 10:30 AM 5/23/85. SMITH, J. (hls)
Mar 28		NOTICE to take deposition of Henry LaHaie. (hls)
Mar 28		REQUEST by pltf for production of documents. (hls)
Mar 28		PRAECIPE filed changing address of pltf's counsel. (hls)
Apr 29		SUPPLEMENTAL MEMORANDUM by deft of P & A's in support of an award of attorneys' fees pursuant to rule 37 of the Federal Rules of Civil Procedure; Table of authorities; exhibit A; attachmetn A exhibit B thru E. (mf)
Apr 29		NOTICE OF FILING of deft's respons to pltf's request for production of documents. (mf)
May 2		APPEARANCE of Mark H. Lynch entered as counsel for pltf. and withdrawal of James H. Lesar's appearance as counsel for pltf. (mj)
May 2		NOTICE by pltf. to take the deposition of Christine Whittaker. (mj)
May 2		NOTICE by pltf. to take the deposition of Leonard Schaitman. (mj)
May 7		MOTION by pltf. for an enlargment of time; P & A's. (mj)
May 10		NOTICE OF FILING by deft; Declaration of Christine R. Whittaker. (m
May 10		ORDER (Filed 5/9/85) granting pltf's moiton for an enlargement of tim to and including May 28, 1985 in which to oppose deft's fee application, with hearing 10:30 a.m. June 11, 1985. (N) SMITH, J. (mj)
May 28		MEMORANDUM by James H. lesar in opposition to defts' request for attorneys' fees under Rule 37, Federal Rules of Civil Procedure; Table of Contents; Table of authorities. (mj)
May 28		OPPOSITION by Weisberg to deft's application for an award of fees; exhibits; Declarations of Mark H. Lynch and James H. Lesar. (mj)
May 31		NOTICE OF FILING by pltf.; attachment to Mark H. Lynch declaration. (mj)

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CIVIL DOCKET CONTINUATION SHEET

LAINTIFF	DEFENDANT	DOCKET NO. 78-322
AROLD WEISBERG	FBI, ET AL.	PAGE 10 OF ____ PAGES

DATE	NR.	PROCEEDINGS
1985		
ine 4		DEPOSITION OF LEONARD SCHAITMAN taken on May 9, 1985 on behalf of pltfs; errata sheet. (mj)
ine 4		DEPOSITION OF CHRISTINE WHITTAKER taken on May 9, 1985 on behalf of of pltfs; errata sheet. (mj)
ine 4		DEPOSITION OF HENRY LAHALE taken on May 6, 1985 on behalf of pltfs; errata sheet. (mj)
ine 7		REPLY MEMORANDUM by deft. in Support of an Award of Attorney's Fees Pursuant to Rule 37 of the Federal Rules of Civil Procedure; Exhibits A and B. (gh)
n 13		MEMORANDUM and ORDER filed 6-13-85 awarding defendant attorney's fees under FRCP 37 in the amount of Eight-hundred and forty-eight dollars (848.00) said to be paid within thirty (30) days from the date of this Order; Further Mr. Lesar is not liable for payment of said award; denying deft's application for attorney's fees for time spent in litigating these cases in the USCA for the District of Columbia and denying deft's oral petition for leave to file an application for fees associated with the remand. (N) SMITH, J. (gh)
il 1		MOTION by pltf's counsel for Leave to Withdraw. (gh)
l 1		MOTION of deft. for attorneys' fees heard on 6/11/85 and taken under advisement. (Rep. G. Sodysko) SMITH, J. (lp)
ly 10		ORDER granting Counsel's motion to withdraw and FURTHER MARK H. LYNCH IS WITHDRAWN AS COUNSEL FOR THE PLAINTIFF. (N) SMITH, J. (kc)
ly 12		MOTION (Rule 60 (b) by pltf. to vacate judgment, reopen case and for other purposes; exhibits. (kc)
ly 22		OPPOSITION by deft. to pltf's Rule 60(b) motion.
g 06		RESPONSE by pltf. to deft's opposition to pltf's Rule 60(b) motion.
t 8		ORDER denying pltf's motion to VACATE Rule 60(b) to vacate judgment. (N) SMITH, J. (mj)
: 9		JUDGMENT that deft. FBI recover from pltf. Harold Weisberg the sum of Eight Hundred Forty-eight ($848.00) plus interest. (N) SMITH, J. (mj)
ct 16		MOTION by pltf. for reconsideration of this Court's Orders issued on the 15th of November 1984, and the 8th of October, 1985.

(OVER)

DC 111A
Rev. 1/75)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 78-322
HAROLD WEISBERG	FBI, ET AL.	PAGE 12 OF ____ PAGES

DATE	NR.	PROCEEDINGS
1985		
Oct 25		OPPOSITION of deft to pltf's second motion to reconsider final judgment. (io)
Nov 5		RESPONSE of pltf to deft's opposition to pltf's motion to reconsider. (io)
Dec 10		HEARING on pltf's motion for reconsideration argued and taken under advisement. (Rep: Catherine Rebarick) SMITH, J. (io)
1986		
Mar 4		MEMORANDUM. (N) SMITH, J. (io)
Mar 4		ORDER reaffirming Court's orders entered 11-18-83 and 10-8-85. (N) SMITH, J. (io)
May 2		NOTICE OF APPEAL by pltf from order entered 3-4-86. $5.00 filing fee and $65.00 docketing fee paid. Copies mailed to: Daniel J. Metcalfe, and Renee M. Wohlenhaus. (io)
May 5		PRELIMINARY RECORD transmitted to USCA: USCA # 86-5289. (io)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

WILLIAM H. WEBSTER, et al.

Defendants.

Civil Action No. 78-0322

(CONSOLIDATED CASES)

HAROLD WEISBERG,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION, et al.,

Defendants.

Civil Action No. 78-420

ORDER

Upon consideration of the plaintiff's motion for reconsideration of the Court's orders of November 18, 1983 and October 8, 1985, defendant's opposition, oral arguments, and the entire record, it is by the Court this 4th day of March, 1986

ORDERED that the Court's orders, entered November 18, 1983 and October 8, 1985, are hereby reaffirmed.

United States District Judge

EXHIBIT 2

Exhibit 1

JAMES H. LESAR
ATTORNEY AT LAW
910 SIXTEENTH STREET, N. W. SUITE 600
WASHINGTON, D. C. 20006

TELEPHONE (202) 223-5587

December 25, 1977

FREEDOM OF INFORMATION REQUEST

Special Agent in Charge
New Orleans Field Office
Federal Bureau of Investigation
701 Loyola Avenue
New Orleans, Louisiana 70113

Dear Sir:

On behalf of a client, Mr. Harold Weisberg, I am requesting copies of all records on or pertaining to the assassination of President John F. Kennedy.

This request includes all records on or pertaining to persons and organizations who figured in the investigation into President Kennedy's murder that are not contained within the file(s) on that assassination, as well as those that are.

This request also includes all records on or pertaining to Lee Harvey Oswald, regardless of date or connection with the investigation into President Kennedy's assassination.

In addition, this request includes all records on or pertaining to Clay Shaw, David Ferrie and any other persons or organizations who figured in District Attorney Jim Garrison's investigation into President Kennedy's assassination.

I would appreciate it if you could let me know the estimated volume of records involved in this request and when you expect to begin processing them in compliance with my client's request.

Sincerely yours,

James H. Lesar

James H. Lesar

Phillips 4th - 4/29/82

II. PROCEDURES UNDERTAKEN BY THE DALLAS FIELD OFFICE IN RESPONSE TO PLAINTIFF'S FOIA REQUEST

A. Initial Search

5. By letter to the Dallas Field Office dated December 25, 1977, plaintiff's attorney requested "all records on or pertaining to the assassination of President John F. Kennedy," including "all records on or pertaining to persons or organizations who figured in the investigation into President Kennedy's murder that are not contained within the file(s) on that assassination, as well as those that are." Also requested were "all records on or pertaining to Lee Harvey Oswald regardless of date or connection with the investigation into President Kennedy's assassination." (A copy of this letter is attached to plaintiff's complaint in Case No. 78-322).

6. Because many of the Dallas documents had been previously processed pursuant to a separate FOIA request by plaintiff for FBIHQ records on the JFK assassination, plaintiff's request was forwarded to FBIHQ. Upon review of this latest request by plaintiff, Special Agent Thomas H. Bresson, then Assistant Chief of the FOIPA Branch, determined that four "main" files in the Dallas Field Office were responsive to plaintiff's FOIA request:

89-43 - "Assassination of President John F. Kennedy, November 22, 1963." This file consists generally of allegations about individuals (other than Lee Harvey Oswald and Jack Ruby) or groups involved in the assassination, and other miscellaneous information.

100-10461 - "Lee Harvey Oswald." This file consists of information developed about Lee Harvey Oswald before and after the assassination.

44-1639 - "Jack Ruby, Lee Harvey Oswald-Victim." This file concerns the killing of Oswald by Ruby.

62-3588 - "President's Commission on the Assassination of President Kennedy." This file consists of material concerning the Warren Commission and the report it issued.

EXHIBIT 4

First, I want to thank the Court for its consideration of my medical and physical limitations. Because of them and because this hearing is limit ed to the new evidence on which my Motion is based, so as not to ramble in ad-libbing - I am not a lawyer - I have typed what I want to say that I may read it. Without interruption, it will take about 20 minutes. Thereafter, if the Court or FBI counsel desire, I have extra copies of the official records I quote and will be pleased to provide them.

MOTION TO RECONSIDER

My motion on which this hearing is being held seeks to have a judgment against me vacated. The judgment was awarded the FBI because I allegedly refused to provide alleged discovery. In fact I provided about two file drawers of this information. After the record before this Court was closed, while the case was on appeal, the FBI began disclosing records to Mark Allen in a case in another court. With one exception, all the new evidence on which my motion is based consists of the FBI's own records disclosed to Allen.

In seeking discovery the FBI represented that the information sought would enable it to establish that it had complied with my requests. It also represented that it required my unique subject-matter expertise. Both representations are untruthful - in fact, impossible.

These FBI records disclosed to Allen are attached to my filing.

A little over a month ago I received additional new evidence, FBI records subsequently disclosed to Allen that are relevant to my undenied allegations of fraud, perjury and misrepresentation by the government to obtain the judgment.

I restrict myself to this "new evidence" and, to save the Court's time, I now refer to only a few of these matters. While none are frivolous, I regard some as of greater importance.

In addition, a few weeks ago a doctoral candidate gave me a copy of a report on FBI files by the Archives and FBI to judge Harold Greene in still other litigation and I use a few excerpts from it.

TICKLERS

FBI SA John N. Phillips, of the Records Management Division, is case supervisor in this litigation. He provided most of the FBI's attestations after accrediting himself as competent to do so. It is undenied that he is in the identical role in the Allen case in Which he also has attested. He thus supervised the disclosure to Allen of what disproves his attestations in this litigation.

With regard to ticklers, or control files, Phillips provided several attestations in which he swore that these ticklers are always routinely destroyed after a short period of time and that there are none in the Dallas or New Orleans field offices. On July 2, 1982, he swore that "the Dallas and New Orleans Field Offices do not produce or maintain ticklers," [T1] repeating this August 26, 1982. [T2]

He also swore that in any event ticklers hold only copies of records from the main case file. In all respects he swore falsely.

While I do not know the extent of the FBI ticklers disclosed to Allen thus far in that litigation, the incomplete copies I have fill two file drawers. These ticklers go back more than 22 years, they refer to other old ticklers, and it thus is apparent that they are not routinely destroyed and that the FBI and Phillips were aware of this when Phillips swore falsely. If this were not the case, before remand I put the FBI and Phillips on notice and this false swearing was neither withdrawn nor apologized for in any way.

In the joint FBI-Archives study reported to Judge Greene, the records of the Dallas field office, among others, were examined, including those relating to the assassination of President Kennedy.

That report refers to the existence of ticklers, as "maintained for the purpose of having all information regarding a specific matter immediately available without the necessity of reviewing numerous case files," in Dallas more than 100,000 pages in the JFK assassination files. This report refers to files in the plural in describing the contents of ticklers and it says further than "they contain copies of serials filed in individual case files." The expert Phillips attested to the contrary.

Without ticklers the FBI would be utterly lost in these massive files in ongoing cases. They were created and they were not destroyed. Another tickler record disclosed to Allen states there was no destruction of any assassination records in either field office.

Page 5 of one FBI tickler record disclosed recently to Allen makes it clear that Phillips was untruthful in attesting that the ticklers contain nothing not in the main file and are identical with it. At 15(b) it is stated that "Only the tickler version contains the Hosty data," another matter about which Phillips attested untruthfully. And at (C) it is stated that "The tickler, report and amended pages differ in many respects." [T3]

Dallas SA Hosty was involved in several serious scandals and was disciplined. Phillips attested that all relevant Dallas Hosty records were disclosed, although the Hosty search slip is entirely blank. When I identified an FBIHQ 67 file in which Dallas Hosty information was hidden, after denials of relevance, the one record I could identify by serial was provided. As this just-disclosed FBIHQ tickler states, it is captioned "Lee Harvey Oswald" and is of obvious relevance. (Another serial from this file identified

by Phillips in this litigation indicating where some were, in particular, of the assassination period recordings of the Dallas police broadcasts. As fast as I disproved one of his untruthful attestations, Phillips made up another, was never truthful and, to this day, these existing and relevant records along with existing and related records remain withheld. That this is not an innocent false swearing is reflected by the Department's letter of a year ago to me in which it admits that as of then one such recording had been blundered into exactly where I had stated it would be, along with relevant records. [R1]

As soon as I received this letter I offered to help locate the other relevant recordings that the FBI did make in Dallas. I also asked for the cost of a second copy of the recording for me to provide to others engaged in this research. Almost a year has passed and I have had no response to my letter nor have I received any copy of any recording or any of the relevant records and neither the recording nor the records are subject to any claim to exemption. One possible reason for this continued withholding in overt and deliberate violation of the law is to keep me from displaying it to this Court as proof positive of Phillips' repeated false swearing and of the FBI's repeated misrepresentations to this Court.

Another possible reason relates to whether the FBI misled a panel of the National Academy of Sciences that was requested to make a study of these recordings by the Attorney General at the request of the House of Representatives.

This is not the only version of those recordings obtained by the Dallas FBI and, contrary to Phillips' attestation that all relevant information is in the four main files, neither they nor

the records relating to the FBI's making the recordings is in any of these main files.

An example of Phillips' false swearing with regard to these records is his March 22, 1982, attestation, "plaintiff has been furnished with all releasable films and tapes." [R2]

He repeated this word-for-word July 2, 1982 [R3] and August 26, 1982 [R4], appending one of his complete fabrications in August, that an FBI employee made copies of the police tapes for the Warren Commission and that the FBI kept no copy. In fact, not a word of this is true.

CRITICS

Those known as "critics" of the JFK assassination investigations are included in my requests but no search was ever made, despite Phillips' attestations that such a search was made and that there are no such records. His resort to semantics does not avoid false swearing. On page 4 of the tickler outline referred to above [T5] is this entry, at 3 C 7, "Subsequent preparation of sex dossiers on critics of probe." Such records are filed at the office of origin, Dallas, were not provided, and remained withheld even after I provided FBI Dallas and New Orleans file numbers for some. It is obvious that such dossiers could not be prepared without retrievable and retrieved records. Here again I emphasize that Phillips was supervisor in the disclosure of this record to Allen, so this information was known to him and his staff when he swore other than truthfully with regard to critics.

On several occasions Phillips swore to searches to locate attestedly non-existing records on "critics." But the search slips

provided, which he also swore are full and complete, reflect that no such search was ever made. With regard to the alleged New Orleans search he attested on April 29, 1982, on page 11, that "an all references indices search was made ... for 'critics' ..." [C1] and with regard to the alleged Dallas search, on page 10, that "No material was found on 'critics' ..." [C2]

The absence of any such search on the search slips attested to as full and complete means that any claim to any such search is knowingly false and the claim that there are no such records likewise is knowingly false. After I provided accurate FBI information neither false attestation was withdrawn.

ALL RELEVANT RECORDS ARE NOT IN MAIN FILES

Phillips attested that all the FBI's information responsive to my requests is in the four main Dallas files to which, without any search at all being made, compliance was restricted. He cannot have read my requests and sworn to this without knowing he was swearing falsely and he released to Allen tickler pages which remove any doubt on this score.

One such page is headed, "L. H. Oswald in Cuba allegation" and thus is of obvious relevance. Under "Material researched for memo" the last item is not cited to any of these mail files but is cited to a "Foreign Miscellaneous" file, "64-44828 Martins Main file." [F1[

When a search was made for newspaper stories reporting that Oswald had been an FBI informer, as another of these new tickler pages reflects, the search was in the 94 files on those papers, mistitled "Research Matters" by the FBI, which seeks to hide these files and

refuses to search them. "Houston Post NR for date 94-8-sub 75" and "DL Morning News, NR for the date, 94-68431." [F2] The companion field office files, also mistitled, are "80. Laboratory Research Matters." They have nothing to do with the laboratory or its research, as I attested and the report to Judge Greene now confirms, there were relevant 80 file records in both field offices, as Phillips knew, and they were withheld from me. [F3]

OTHER UNTRUTHS ABOUT RECORDS AND INDICES

Phillips' attestations to the FBI's once-secret hiding places and methods are directly contradicted by the joint FBI-Archives report to Judge Greene and by Phillips himself.

On August 26, 1982, Phillips attested that "'June' files are what the FBI sometimes calls the files that encompass the electronic surveillance conducted by a field office." In fact, they are and they "encompass" much more. "Information in the 'June' files," he attested, "like all other FBI files, is thus retrievable through a search of a field office's general indices." This also is untrue.[01]

Phillips then pretended not to understand what is meant by keeping field office records outside its general files in the SAC's safes and by other means, but he did swear that "a search of the SAC safes in both the Dallas and New Orleans Field Offices was made." In this he directly contradicts himself because he also swore that I was provided with all records of all alleged searches and no such search was even requested, leave alone made, from the search records provided in this litigation. Moreover, from his own words, even if there had been such a search, it was not a search responsive to my requests because it was, in his own words, limited to what the

FBI captioned as JFK assassination and specifically, my requests of both offices are not so limited. [02]

With regard to Phillips' attestation to the retrievability of all records by a search of the general indices, the report to Judge Greene says there is "a variety of other indices." [03]

It states also that "Some records are maintained separately from the related case files," including in special file rooms, surveillance materials and, addressing Phillips' feigned uncertainty, "materials maintained under the personal control of the Special Agent in Charge." Quoting, and again in direct contradiction of the FBI's attestations, "The Field Offices have special file rooms for informant files and ELSUR materials." And they also have "'Do Not File' materials" for what the FBI regards as "sensitive" to "ensure that such information would not appear in the case file." That "June" is for more than electronic surveillance next follows in a listing that includes the "highly controversial." And when the "June" designation was abandoned during this litigation, the FBI "required continued special handling and separate filing of sensitive material." [04]

"Do Not File documents are used in sensitive matters," the Report to Judge Greene states, "such as illegal break-ins and political gossip, but they were used also for policy making and administrative documents, in which restricted circulation and filing was desired." Again, directly contradicting Phillips, this report to Judge Greene states that "There is no procedural cross-referencing between the ELSUR index and the General Index."

I have not exhausted Phillips' permeating infidelity to fact ranging from his deliberate resort to semantics to evade, misrepresent

and mislead to the overtly false but have restricted myself to a selection of the large amount of FBI information that it, itself, disclosed and this I use as what it is, "new evidence." What makes all this official dishonesty even more blatant is the fact that most of this new evidence was disclosed under Phillips' personal supervision and control, albeit delayed until after the case record in this litigation was closed. It is beyond question that none of Phillips' permeating dishonesty was not and could not have been accidental.

OFFENSES BY FBI COUNSEL

Paralleling all this FBI sworn-to official untruthfulness to this Court is serious misrepresentation by its counsel and, surprisingly, some of that, for reasons not apparent to me, also is sworn to. This is consistent with the behavior of all FBI counsel, who entirely disregarded all the proof I provided of Phillips' and other FBI untruthfulness, myself under oath, when those counsel filed with this Court additional attestations already proven to be untruthful.

I reemphasize that the FBI and its counsel have not made even pro forma denial of the new evidence I provided and its meaning and that it thus is the only evidence before this Court on the limited question before it, of vacating the judgment based on this new evidence. I believe that both the FBI and its counsel ought be subject to sanctions because of their undenied wrongful and I believe criminal conduct.

With regard to my Motion, through its counsel the FBI makes two knowingly untruthful representations. One is that I have done no more than "rehash" the question of search when in fact I have done no such thing, not in any way, as is obvious in any reading

of what I have filed. The other is that under Rule 60(6) time has run. This is false on two counts, and again, there is no question of deliberateness in these misrepresentations. With regard to the time permitted by the Rule, the one-year limit, specifically, pertains to the first three of its six clauses only. If by any remote chance learned FBI counsel, trained and experienced in the law, knows less than an aged, infirm and ill layman, the possibility of ignorance causing this serious misrepresentation vaporized when I quoted the entire Rule verbatim. Yet thereafter the same and certainly deliberate misrepresentation, that the one-year limit applied and had run, was repeated by the FBI's counsel.

Moreover, even if this were not true, the year still has not run because it is much less than a year since this Court issued its judgment, so not only the last three clauses of the Rule can be invoked, all of them can be and are.

THIS COURT ERRED IN NOT MAKING ANY FINDING OF FACT

I also invoked Rules 52 and 59, the latter pertaining to new trial and the amending of judgment. The first words of clause (a) of Rule 52 are, "In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specifically and state separately the conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds for its action ..." Clause (b) provides for amending judgments. Even "when findings of fact are made in actions tried by the court without a jury" - and this Court made no "Findings of Fact" - "the

question of the sufficiency of the evidence to support the findings of fact may thereafter be raised ..." The FBI has not raised any question of the sufficiency of the evidence I presented. In fact, it has entirely ignored all the evidence I presented and, with ample opportunity to do so, has presented no evidence of its own for, in truth, it cannot. The only evidence before this Court is the entirely undenied evidence I presented and thus there is no other evidence before the Court on my Motion for it to consider. On its part the Court erred in not making any Findings of Fact. For these reasons the Court may, and I believe it should, vacate the judgment obtained by the serious, undenied and I think criminal misconduct by which it was procured. Moreover, in the absence of even a scintilla of contradictory evidence, I believe that under the Rules I am entitled to no less and that the Court has no alternative.

Phillips 5th

T1

"the FBI searches ... processed all the Dallas and New Orleans files that were responsive to plaintiff's FOIA request." (Emphasis added). And finally, in paragraph 25 of my fourth declaration, filed on May 3, ... stated that the same files set out in paragraph 3 of my first declaration "were [the ones] determined by the FBI to be responsive to plaintiff's FOIA request." Notwithstanding these unequivocal statements, I will once again declare, in an attempt to satisfy plaintiff's concerns, that the records listed in paragraph 3 of my first declaration and paragraph 25 of my fourth declaration encompass all the records which were determined by the FBI to be responsive to plaintiff's FOIA request.

4. Plaintiff's counsel next raises a question whether the FBI searched its "tickler" records in Dallas or New Orleans on the Kennedy assassination. Before addressing that question, a brief explanation of "ticklers" is in order.

A "tickler" is a carbon copy of a document which is prepared for the information and temporary use of individuals at FBIHQ who need to follow the progress of a certain matter. There are no set policies or procedures for the retention or maintenance of "ticklers." Rather, each employee has his own system for handling "ticklers," depending on what is most convenient for him. In addition, each employee normally discards his "tickler" copy of a document once it is no longer of any use to him.

Not all FBI divisions maintain "ticklers." Indeed, most FBI field offices, including the Dallas and New Orleans Field Offices, do not produce or maintain "ticklers."

Accordingly, the answer to plaintiff's question concerning "ticklers" is simply that there are no such documents in the Dallas and New Orleans Field Offices. But even if those field offices had maintained "ticklers", it would have been virtually impossible to search for the ones responsive to plaintiff's FOIA requests inasmuch as their maintenance varies among the employees who use them. Moreover, it would have been useless to do so since they are merely carbon copies of documents that have already been processed in response to plaintiff's requests.

of a certain matter. I also stated that not all FBI divisions maintain "ticklers" and that indeed most FBI field offices, including the Dallas and New Orleans Offices, do not produce or maintain these types of records.

In response to those statements, plaintiff produced a document (i.e., Exhibit 2 attached to Harold Weisberg's affidavit of July 21, 1982) ("Weisberg Affidavit"), which he claims demonstrates that the Dallas Field Office does produce and maintain ticklers. That document indicates that a file on Marina Nikolaevna Porter was being closed on March 6, 1978, but that the agent wanted to reopen the case in six months "for verification of the address of subject and family." To remind him of the reopening, the agent directed a rotor clerk, per a notation at the end of the memorandum, to prepare a "six (6) months tickler for reopening."

In this context, it is clear that the agent was not requesting the production of a photostatic or carbon copy (i.e., a "tickler" copy) of the memorandum in question. He was instead directing a clerk to prepare a 3 x 5 card indicating the action that was to be taken six months hence. This card, in turn, would have been placed in a chronologically arranged system of other such cards which contained similar types of reminders. As each time period elapsed, the noted action would be taken and the "tickler" card would be thrown away.

Exhibit 2 attached to Weisberg's Affidavit thus does not refute the statement in paragraph 4 of my fifth declaration that most FBI field offices, including the Dallas and New Orleans Offices, do not produce or maintain "tickler" copies of the documents that they generate. Rather, it merely demonstrates that FBI agents often utilize an informal card system to remind them of certain actions that should be taken in the future.

(T3)

Mr. Monahan
Re: Assassination of President John F. Kennedy

SECRET

(12) Bureau airtel dated 2/14/64, advised Dallas and New Orleans that the amended pages were not to be inserted in the 12/23/63, report since the changes were not substantive and dealt primarily with page numbering of the original address book. The amended pages did not include the Hosty data (105-82555-2021). SAC Francis M. Mullen, Jr., New Orleans Division, reviewed the New Orleans Lee Harvey Oswald file on 11/15/77, and advised that pages 672 through 701 conformed to Bufiles.

(13) Former SA Gemberling and SA Kessler furnished affidavits dated 2/25/64, Bufile 105-82555-2243 and 105-82555-2244 respectively, which essentially explained the conversion of Kessler's office memorandum to a report insert and stated that the Hosty data was omitted from both the memorandum and report since it was not of lead value. These affidavits were furnished to the Warren Commission by Bureau letter dated 2/27/64, (105-82555-2240).

(14) SA Udo H. Specht, Dallas Division, has conducted exhaustive searches to locate the original Kessler memorandum without success.

(15) Comparison of all four versions of pages 672 through 701 reflect the following:

(A) The 12/19/63, version appears identical to the 12/23/63, report version except for a minor pen change to a street number.

(B) Only the tickler version contains the Hosty data.

(C) The tickler, report and amended page versions differ in many respects. For example, 25 pages of the tickler copy do not coincide with the 30 pages of the report version to include page 696 which pertains to the Hosty data.

5

allen

SECRET

Gale material continued

also see

62-116395-1238 X 1

(material referred to was delivered 1/13/76 - perhaps serial 1262 X.)

allen

Gale report 12/10/63
"Lee Harvey Oswald"
13-2
(not enclosed)
67-758-3050
may be copy in a Hasty T folder

DL a/t 9/29/64
capt. as above
67-758-3114

---

also see SSC T folders:
1/14/76 Warren Comm. - Oswald
12/11/75 Davidson to Callahan Hasty memo

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also see
62-116395-1262 X and its
each behind file

continued

(15)

The Federal Bureau Of Investigation

3. Early Bureau Response To The President's Assassination

A. November 22-23, 1963

1. Early teletypes; instructions to field; Hoover, Sullivan, Belmont memos; 80 agents to Dallas

2. Jenkins memo of Nov 24: Hoover says Oswald alone did it, Bureau must "convince the public Oswald is the real assassin."

3. Hoover memo on Nov 26: "wrap up investigation; seems to me we have the basic facts now" 62-109060-1490

4. Hoover memo on Nov 29: "hope to have investigation wrapped up by next week"

B. Lee Harvey Oswald

1. Establishing chain of evidence, bullet to gun, etc.

2. Early note destruction: handling by Bureau on Nov 24 and effect in subsequent days

3. Interviews of Oswald associates, Marina wiretap

4. Refer

REFERRAL DOCUMENT
FOI/PA # 21,326
APPEAL #
CIVIL ACT. #
E.O. # 12356
DATE 7/25/84

S-1
S-2

C. Jack Ruby

1. Basic facts, early memos

2. Hoover suspicion of basement entry and assistance

3. extensive teletypes and reports on organized crime connections, also Hoover's own memos

4. contacts in 1959 as P.C.I - for use as informer on criminal element in Dallas

Referred

21,326 Militia Sticks
Assigned by SKSHIJ/GCL
Classify on: OADR 7/25/84

SECRET

2. Structure and Methods of the Bureau Investigation

A. Basic Organization and Jurisdiction

1. Legal basis of FBI involvement in probe, statutes.
2. Hoover and Belmont memos
3. Organization chart

B. General Investigative Division G.I.D.

1. Rosen testimony on "ancillary nature" of probe; lack of meetings; assignment to bank robbery desk
2. Supervisors Senate testimony on physical evidence chain
3. Sullivan on lack of communication with Domestic Intelligence - the Division running the probe of LHO
   LACK OF COORDINATION BETWEEN DIV 5+6.
4. Rosen characterization of FBI "standing with pockets open waiting for evidence to drop in"
5. Supervisors testimony on LHO not being included in G.I.D. probe other than in relation to physical evidence
6. Rosen didn't know of "Gale Report" which found deficiencies in Bureau coverage of Oswald
   DID NOT INITIAL IT.

C. Domestic Intelligence Division D.I.D. Div. 5

1. LHO background established, prior coverage
2. Sullivan testimony on chaotic process, lack of input
3. Soviet experts handled Oswald investigation
4. Secret disciplining of DID officials who handled pre-assassination investigation of Oswald
5. Incident of Sullivan's people copying GID files
6. Hosty note destruction: Sullivan lack of knowledge
7. Assignment of Ruby probe to Civil Rights Division - outside of DID jurisdiction, thus not a part of general Oswald investigation.

SECRET

D. Investigation of Potential Cuban Aspects

1. Cancellation of orders to contact Cuban sources on Nov 23

[redacted] Referral

3. Deletion of [redacted] (S-1)(S) from memo provided to Commission (S-2)(S)

4. Cuban experts and supervisors excluded from investigation b1

5. Church Committee findings on narrow Cuban focus

6. [redacted] (S-1)(S)

E. Investigation of Potential Organized Crime Aspects

1. Hoover memos and teletypes on Ruby connections

2. Ruby phone records

3. Justice Dept. interest in probing O.C. aspects

4. Chicago interviews with Ruby associates

5. Evans and Staffeld (and Demby and Stanley) statements on not being consulted

6. Use of Ruby as informant on Dallas criminal element

7. LCN sources available at time

3. Bureau Relationship With Warren Commission

A. Formation of Warren Commission

1. Hoover opposition: memo and Jenkins memo

2. Katzenbach testimony and Sullivan statement

3. Early memos - adversary relationship

4. Hoover blocking Warren's choice for general counsel

5. Preparation of dossiers on staff and members.

B. Assistance To Warren Commission

1. Basic scope of official relationship

2. Early friction over informant allegation (LHO)

3. Withholding of Hosty name from Oswald notebook

4. Hoover instructions to agents not to volunteer info. to WC

5. Destruction of Hosty note: implications

6. Withholding of secret "Gale Report" on Bureau mistakes in earlier Oswald probe; disciplining of officials

7. Hoover instructions ordering that no Bureau official attend earliest WC session, despite Katzenbach request

8. Delay in sending information to Commission regarding Bureau's past nine contacts with Ruby

9. Apparent withholding of "Oswald imposter" memos of 1960-1961

Referred [redacted]

11. Handling of Ruby polygraph

C. Related Bureau Actions and Activities

SEPT. 24, 164

1. Preparation of dossiers on WC staff after the Report was out

2. Hoover's leaking of early FBI report (Sullivan statement)

3. Hoover views on Communism and Oswald (Kronheim letter)

4. Sullivan relationship with Angleton: pre-arranging of answers to Commission questions.

5. Secret plan to distribute Oswald-Marxist posters in Bureau plan to discredit Communist Party; prejudicial aspects

6. Hoover reaction to Warren Report

7. Subsequent preparation of sex dossiers on critics of probe

8. Questions regarding FBI's continual pledge that "case will remain open for all time;" actual designation of it as "closed" in internal Bureau files.

U.S. Department of Justice

Office of Legal Policy

Office of Information and Privacy

Washington, D.C. 20530

DEC 31 1984

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

Re: Appeal Nos. 80-1644
and 81-0533
RLH:PLH

Dear Mr. Weisberg:

This letter is to advise you that we have located certain records that appear to be responsive to your requests to the Criminal Division for records relating to the assassination of President John F. Kennedy. Those requests are the subject of Appeal Nos. 80-1644 and 81-0533. These records contain the original dictabelt provided to the HSCA by the Dallas Police Office. We have also located unindexed working copies of portions of that tape in the Technical Services Division of Bureau Headquarters. These records are now being reviewed and a release determination will be made as soon as possible.

You will be interested to know that these records were located as a result of a lead uncovered by Ms. Hubbell during the processing of certain documents you requested from the Criminal Division that were referred to this Office. The dictabelt and related documents have been stored for the last several years in the office safe of Roger Cubbage, a Criminal Division attorney, who was an assistant to Robert Keuch.

Sincerely,

Richard L. Huff, Co-Director
Office of Information and
Privacy

T Phillips 29 3/22/82 R2

Indices searches were made in the Dallas Field Office to locate material on Mr. Hosty. No main files or miscellaneous files on Mr. Hosty were located; however, there was a general personnel matters file (67-425) containing material on Mr. Hosty relative to the JFK assassination which was processed and, where appropriate, released to plaintiff.

The New Orleans Field Office conducted indices searches for material on Mr. Garrison. Two files (included in the NO miscellaneous references) were located and processed for release. Two other documents relative to the JFK assassination which contained Mr. Garrison's name (i.e., see references) were also located and processed. Because Mr. Garrison is a well know public figure in New Orleans, his name was found in numerous other documents, none of which pertained to the Kennedy assassination; accordingly, those documents were not processed.

Finally, no files were located on "critics" or "Warren Commission critics" in either the Dallas or New Orleans Field Offices.

5. Contrary to his assertions, plaintiff has been furnished with all releasable films and tapes relative to the JFK assassination contained in the Dallas and New Orleans Field Offices.

6. In his opposition papers, plaintiff contends that the 94,965 "previously processed" pages should be included in the proposed sample Vaughn Index. As noted in paragraph 4 of my earlier declaration, the "previously processed" documents consist of material in FBIHQ files on the JFK assassination. Those documents were processed prior to this litigation pursuant to a separate FOIA request by plaintiff for FBIHQ records on the Kennedy assassination. Accordingly, when plaintiff later requested DL and NO documents on the JFK assassination, the FBI reviewed all such documents and excluded records duplicative of those that had been processed in the FBIHQ request. To have

The third criticism presented by plaintiff's counsel with respect to the adequacy of the FBI's search is the assertion that the agency failed to produce certain films, tapes and photographs contained in the Dallas files on the Kennedy assassination, "including tapes on 'critics' like Jim Garrison and the Dallas police radio broadcast." Pl. Opp. at 11. This assertion is false.

All photographs in the Dallas and New Orleans Field Offices' files on the Kennedy assassination, including those referenced by plaintiff's counsel, were processed in response to plaintiff's FOIA requests. Those photographs not subject to a FOIA exemption were provided to plaintiff in the form of photostatic copies.

In addition, I have indicated on a number of occasions that plaintiff has been furnished with all releasable films and tapes relative to the JFK assassination contained in the Dallas and New Orleans Field Offices. (See paragraph 5 of my second declaration, filed on March 22, 1982; paragraph 3(g) of my third declaration, filed on April 15, 1982; paragarph 20 of my fourth declaration, filed on May 3, 1982). In one last attempt to placate plaintiff's doubts, I reiterate that the FBI has notified plaintiff of all films and tapes in the Dallas and New Orleans Field Offices' files which pertain in any manner to the Kennedy assassination, and that he has been provided with copies of those films and tapes which are releasable.

6. The fourth accusation made by plaintiff's counsel in his opposition brief is that the FBI ignored certain parts of plaintiff's FOIA requests. This accusation, similar to the previous ones, has absolutely no foundation.

As I spelled out in great detail in my fourth declaration, filed on May 3, 1982, all records on or pertaining to persons or organizations who figured in the investigation of the Kennedy assassination -- as far as those records were related to that investigation -- were processed and, where appropriate, released

(d) Whether the FBI searched for records referenced in a Dallas memorandum dated October 23, 1975, attached as Exhibit 11 to Weisberg's Affidavit.

As I indicated in paragraph 18(e) of my fourth declaration attached to Defendant's Motion for Partial Summary, filed on May 3, 1982, the FBI's search in these cases did locate records concerning the allegations of Mr. William Walter. By letter dated May 15, 1981, plaintiff was provided with the records pertaining to Mr. Walter's allegations that had not been previously processed in the FBIHQ files.*/

(e) Whether the FBI searched for all films and tapes.

As I have stated several times in these cases,**/ plaintiff has been furnished all releasable films and tapes in the Dallas and New Orleans Field Offices which pertain to the JFK assassination. Furthermore, as I indicated in paragraph 3(g) of my third declaration, some tapes and films (this includes the "Thomas Alyea film") were sent to FBIHQ during the investigation and thus are involved in the pending administrative appeal of plaintiff's separate FOIA request for FBIHQ material. Lastly, there are no tapes of "the recorded police radio broadcasts" in either the Dallas or New Orleans Field Offices.***/

*/ Most of the records surrounding Mr. Walter's allegations were previously processed pursuant to a separate FOIA request by plaintiff. That processing of the FBIHQ Kennedy files was explained in paragraph 6 of my second declaration attached to Defendant's Reply to Plaintiff's Opposition to the Motion Concerning the Adjudication of Certain Exemption Claims, filed on March 22, 1982.

**/ See Second Declaration of John N. Phillips, ¶ 5, attached to Defendant's Reply to Plaintiff's Opposition to the Motion Concerning the Adjudication of Certain Exemption Claims, filed on March 22, 1982; Third Declaration of John N. Phillips, ¶ 3(g), attached to Defendant's Response to Plaintiff's Settlement Proposal, filed on April 15, 1982; Fourth Declaration of John N. Phillips, ¶¶ 20 and 24, attached to Defendant's Motion for Partial Summary Judgment, filed on May 3, 1982; Fifth Declaration of John N. Phillips, ¶ 5, attached to Defendant's Reply to Plaintiff's Opposition to the Motion for Partial Summary Judgment, filed on July 2, 1982; and Seventh Declaration of John N. Phillips, ¶ 3, attached to Defendant's Opposition to Plaintiff's Motion for Order Compelling Photographic Copies of All Movie Films and Still Photographs in the FBI's Dallas and New Orleans Field Offices, filed on August 19, 1982.

***/ It should be noted that a tape of the recorded Dallas police radio broadcasts was made by an FBI official for use by the Warren Commission. However, a copy of that tape was not maintained by the Bureau in its files on the assassination.

Phillips 4th 4/29/82

21. In addition, the FBI agreed, pursuant to a request by plaintiff's attorney, to furnish him all the indices search slips prepared by the Dallas Field Office. Thus, plaintiff has the capability for determining what files were searched and processed by the FBI in response to his Dallas FOIA request.

B. Searches Undertaken In The New Orleans Field Office As A Result Of The Administrative Appeal

22. As a result of the Associate Attorney General's decision on plaintiff's administrative appeals, the New Orleans Field Office conducted, again under the direction of Special Agent Clifford H. Anderson, new indices searches for all the subjects listed in that decision. (See paragraph 17, supra). Moreover, an all reference indices search was made for material on George DeMohrenschildt, as well as for "critics" or "criticism" of the assassination investigation.

23. In February 1981, the New Orleans office advised FBIHQ that no additional "main" or "see" references had been located on the subjects listed by the Associate Attorney General. Likewise, no "main" or "see" references had been found on George DeMohrenschildt (other than an FOIPA administrative instructional document) or on "critics" or "criticism" of the FBI's assassination investigation. However, the New Orleans Field Office did forward to FBIHQ all material filed in 89-69 subsequent to that file having been sent to the FOIPA Section for processing. Upon processing this new material, plaintiff was furnished the releasable portions.

24. Furthermore, as a result of the administrative appeal, the FBI conducted a search for films and tapes contained in the New Orleans Field Office pertaining to the JFK assassination. Two tapes were located and processed: one was released to plaintiff whereas the other was withheld pursuant to (b)(7)(C), (D) of the FOIA. (See paragraph 3(g) of my declaration of April 15, 1982.

25. In addition, the FBI agreed, pursuant to a request by plaintiff's attorney, to furnish plaintiff with all the indices search slips prepared by the New Orleans Field Office. Accordingly, similar to Dallas, plaintiff has the capability for

Phillips 4th

C2

d) George DeMohrenschildt

1 "main" file: 105-632 - "George DeMohrenschildt." This file consists of an internal security investigation on Mr. DeMohrenschildt beginning in 1940.

1 "see" reference in file 100-8149: caption withheld pursuant to privacy interests.

e) Administrative Files

152 "see" references in the following files:

67-425 - "Personnel Matters General." This is the material on SA James P. Hosty. (151 "see" references).

One file - captioned, "Inquiry Concerning Authenticity of Alleged Teletype Directed to All SACs 11/17/63 Captioned 'Threat To Assassinate President Kennedy, in Dallas, Texas 11/22/63, Miscellaneous Information Concerning.'" This file concerns the allegations of a William Walter that there was a teletype sent to all SACs about a threat to assassinate President Kennedy. (1 "see" reference).

f) Warren Commission and Critics or Criticism of the FBI's Investigation

No additional "main" files or miscellaneous "see" references on the Warren Commission were located. Likewise, no material was found on "critics" or "criticism" of the FBI's assassination investigation.

19. The additional Dallas material listed above was processed and the releasable parts were furnished to plaintiff. Plaintiff was also furnished with all releasable material filed in 89-43 and 44-1639 subsequent to those files having been sent to FBIHQ for processing by the FOIPA Section.

20. Furthermore, as a result of the administrative appeal, the FBI conducted a search for films and tapes contained in the Dallas Field Office pertaining to the JFK assassination. Six films and six tapes were located and processed. As noted in paragraph 3(g) of my declaration of April 15, 1982 (attached to the Defendants' Response to Plaintiff's Settlement Proposal), plaintiff was furnished those films and tapes that were releasable.

(FD)

7/21/77

L H Oswald in Cuba allegation

Frank Sturgis claim re Miami Oswald document

Material researched for memo:

SENSTUDY Book 5 'Final Report'

62-116395 Section 52: Not Recorded communication (located immediately above Serial 1444 (also see serial 1444?)

62-109060 Section 177: Most serials between 7123+7140 contain info re Frank Sturgis. (Perhaps other serials, also.)

62-109060 Section 178: Serials 7145, 7150, 2nd Not Rec'd above 7160, others? contain info re Sturgis

62-109060 Sect. 179: Serial 7193, others? contain info re Sturgis

105-82555 [redacted] Sect 126: Serial 3103 is Miami report 4/4/64 containing FD302 dated 3/24/64 (interview of Martino).

62-116395 Section 46, Serial 1250X - this serial contains documents concerning Oswalds trip to Mexico. Especially see page 2 of the 15th document attached to Serial 1250X. (Sullivan to Belmont memo "L.H.O." dated 1/28/64

62-115530 Sect 214 Serial 10046 - info re Sturgis.

105-82555 Sect. 123 Serial 2993; material in Section 157?

105-82555 Sect. 69 Serials 1519 & 1505 (FD302 1/14/64 Fiorini interview)

64-44828 Martino Main file

allen

F2

DL 1/4/64

K 2213 -NC

O DL61, 1321, 1757

Hunt Post. NR for date

94-8 Sub-75

DL Morning News NR for the date

94-68463

Kennedy

7376, 2793 p. 44, 3004

62-109090 - 236 334, 335, 338, 347 No Good

Oswald

2932, 3077, 3199, 3401, 3432.

5188

( )

allen

The Bureau establishes control files as another means of maintaining control of information and activities on specific subjects. Control files usually are set up in connection with various investigative activities such as gambling investigations, organized crime programs, political organizations under investigation, protection of the President, and any other topic needing control between the individual case files. For example, a Headquarters control file exists for bank robbery suspects in classification 91, Bank Robbery. This file, in Headquarters 91-1419, consists of documents relating to suspects who are the subjects of various classification 91 investigations. Sometimes the control files are lists of other files, names of organizations and case files numbers, or public correspondence files on a specific case that has drawn public attention.

Another standard filing procedure is the use of sub-files. At times they are created when the original file is too large and is divided into sub-units, each with its own numerical designation. The Bureau also uses alphabetically designated sub-files to control records such as newsclippings, informant reports, and transcripts when they become too voluminous to be included in the main case file. Finally, the Bureau routinely files voluminous enclosures to correspondence or reports directly behind the case file as an enclosure-behind-file (EBF).

Two classifications, 62 (Administrative Inquiries) and 66 (Administrative Matters), were established about 1921 as repositories for miscellaneous administrative files. Bureau manuals list major subject areas for inclusion in the classifications, but there are file topics beyond those subject areas in both classifications. The documentation is voluminous and varied, and thus the classifications are very heterogenous in topics and significance. As an example, classification 62 contains chronic public correspondence files and informant control files. The miscellaneous nature of the two administrative classifications is an aberration from the Bureau's adherance to a strict case file system of records keeping.

Although most of the files maintainance procedures adopted in the Bureau Headquarters are duplicated in Field Offices and overseas Legats, some variations do exist. Field Offices separate their closed and pending investigative files. The latter are retained by the operational unit pursuing the investigation, while the former are centrally maintained in a closed file area. Closed Field Office and Legat files in which there are few serials are frequently consolidated into one volume of records.

Because the files are numbered consecutively, the same case will not have the same number at Headquarters and in the Field Offices. Classification of investigations is idiosyncratic, both in the Field Offices and Headquarters, so that the same cases may be in different classifications in the Field Offices and Headquarters. The 00 files in the Field Offices are usually only copies of policy documents from Headquarters with few internal Field Office documents that would alter the policies in each classification. classification 80 at Headquarters is Laboratory Research Matters, while in the Field Offices it is the public relations classification euphemistically named Research Matters at Headquarters (classification 94).

Phillips 8th - 8/24/82

(b) Whether the FBI searched for "ticklers."

In paragraph 4 of my fifth declaration, I stated that, because the Dallas and New Orleans Field offices did not produce or maintain "tickler" copies of documents, the FBI did not undertake a search for such records. I also explained that even if those field offices had maintained "tickler" copies, it would have been virtually impossible to search for the ones responsive to plaintiff's FOIA requests inasmuch as their maintenance varies among the employees who use them. Moreover, I noted that it would have been a duplication of effort to search for "ticklers" (again assuming their existence) since they would have been merely carbon copies of documents that were already processed in response to plaintiff's requests.

(c) Whether the FBI searched "June files."

"June files" are what the FBI sometimes calls the files that encompasses the electronic surveillance conducted by a field office. These files, consistent with the FBI's filing system,*/ are index according to who or what organization or company was under surveillance. Information in the "June files," like all other FBI files, is thus retrievable through a search of a field office's general indices.

In the instant cases, the FBI utilized its general indices to identify material responsive to plaintiff's FOIA requests. If any of that material was located in a "June file," that file was searched and the releasable material pertinent to plaintiff's requests was furnished to him. However, not all of the "June files" in the Dallas and New Orleans Field Offices were searched for, as can be readily imagined, most of them have absolutely nothing to do with the JFK assassination.

*/ For a detailed explanation of the FBI's filing system, see paragraphs 3 and 4 of my fourth declaration attached to Defendant's Motion for Partial Summary Judgment, filed on May 3, 1982.

Phillips 8th - 8/26/82 (02)

(m) Whether the FBI has searched SAC confidential files and safes.

The FBI is unsure what plaintiff is referring to when he talks about SAC (i.e., Special Agent in Charge) confidential files. Plaintiff may be referring to materials on highly sensitive investigations and personnel matters which are maintained in the offices of the SACs. Those materials are kept in safes for security purposes.

In the instant cases, the FBI did undertake a search of the SAC safes in both the Dallas and New Orleans Field Offices. Any records that were located therein which pertained to the JFK assassination or which were responsive to the Associate Attorney General decision of December 16, 1980, were processed and, if nonexempt, were provided to plaintiff.

(n) Whether all records identified on "see" references have been provided.

As I have stated before in these cases,*/ all releasable information pertinent to plaintiff's FOIA request has been provided to him. This includes records identified by way of "see" references. Furthermore, as I stated in paragraphs 21 and 24 of my fourth declaration, plaintiff was provided -- by agreement of the FBI -- with copies of all the indices search slips prepared by the Dallas and New Orleans Field Offices. Plaintiff thus has the capability for determining what files (including those identified by way of "see" references) were searched and processed by the FBI in these cases.

*/ See, e.g., Fifth Declaration of John N. Phillips, ¶ 3, attached to Defendant's Reply to Plaintiff's Opposition to the Motion for Partial Summary Judgment, filed on July 2, 1982.

It was assumed that some kind of statistical sample of FBI records would ultimately be made permanent and transferred to the National Archives. To assure that historically important records, which might be missed by such a sample, were preserved, a list of approximately 4,000 Exceptional Cases was developed. Contributions to the list were sought from the research communities through their journals and newsletters and through letters sent to some 600 scholars. In addition, the team members provided Exceptional Cases from their research and their work with the case files. (Section 3.)

Based upon the proportional sampling technique employed nearly one-half of the case files examined came from 33 classifications. Case files from two classifications — 100 (Domestic Security) and 105 (Foreign Counterintelligence) — comprise more than 10% of the 18,000 case files. Although it is commonly assumed that FBI case files are bulging dossiers, two-thirds of the sample are less than one-fourth inch thick. Another common assumption that most FBI case files are rich historical sources is not supported by the 18,000 case files in the data base. Indeed, only 26.5% of the sample have any research potential. (Section 4.)

Information on the case files in the data base was used to generate "classification profiles" that formed part of the background material relied upon in making appraisal recommendations. (Section 5 and Appendix A.) The data base also was used to test several hypotheses about FBI case files. Contrary to what one might expect, more criminal related case files are opened than security related ones, although it is clear the latter tend to have greater research potential. An analysis of the data base revealed only one time period — the 1940s for security related classifications — when research potential was significantly greater than any other time period. Another analysis disclosed that Field Office/Office of Origin case files tend to have more research potential than Field Office/Auxiliary Office case files, and that the research potential of Field Office/Office of Origin case files is identical to Headquarters. A comparison of selected Field Office/Office of Origin case files with Headquarter counterparts shows that 60% had identical research potential ratings; and where the research potential rating differed, a higher research potential was marked for Headquarters case files. Finally, "fat files" clearly had greater research potential than "thin files", and proved to be the best single predictor of research potential. This analysis also suggested that a "fat file" or multi-section file should consist of two or more sections. (Section 4.)

Several studies of special topics such as indices, abstracts, non-textual records, and the like were conducted. The permanent value of main subject index cards is determined by the disposition instructions for related case files. A variety of other indices, including some relating to electronic surveillance activities, have research potential and should be retained. Generally, the value of non-textual records derives from whether or not the related case file is to be permanently retained. With few exceptions, disposal of computer tapes is not authorized at this time, although in some areas they are of permanent value. A review of the Bureau's abstract system indicated that only abstracts arranged by "source" and those related to the SIS program in Latin America should be permanently retained. (Appendix A.)

Based upon analyses of the case files in the data base, examination of other

2.3 Records maintained separately from main file room

Some records are maintained separately from the related case file or are maintained as a separate series outside the main file room. They include records in Special File Rooms, ELSUR materials, personnel and budget records, FBI National Academy records, public inquiries, automated and audiovisual materials, and materials maintained under the personal control of the Special Agents in Charge.

In 1948, a Headquarters Special File Room was established to hold "all files that have an unusually confidential or peculiar background . . . including all obscene enclosures." Until recently there were several rooms considered special records rooms. The criteria for records to be placed in the Special File Room have changed through the years, but the following categories have usually been in a special file room: June mail, electronic surveillance materials (ELSUR), informant files, sensitive materials on Bureau employees and prominent people, undercover operations records, foreign source records, and several small sensitive series of records. Access to the room and the records is limited to a small number of employees. The Field Offices have special file rooms for informant files and ELSUR materials. The records in special file rooms are controlled through the central records system.

Two Bureau record keeping practices, "June Mail" and "Do Not File" memoranda, have received widespread attention. The SAC Letter no. 69 of June 29, 1949, established a separate filing procedure for information from or relating to the Bureau's "most sensitive sources" to ensure that such information would not appear in the case file. Such mail was to be sealed in an envelope marked "June" (a codeword used because the program began in June). The envelope in turn was placed in another envelope addressed to the Director, Personal and Confidential. The same SAC Letter specified that "June Mail" was "to be used only for the most secretive sources, such as Governors, secretaries to high officials who may be discussing such officials and their attitudes, or when referring to highly controversial or unusual investigative techniques." The latter refers to electronic surveillance or surreptitious entries and was used as a euphemism to conceal the existance of such activities.

From the beginning most of the June mail procedures related to information from techniques (especially electronic surveillance) used in security cases. In 1964 some information relating to criminal intelligence, such as La Cosa Nostra and Top Echelon Criminal Informants, was also authorized to be handled under June procedures. A May 26, 1970, SAC Letter further broadened the definition of June mail by leaving to the discretion of each SAC what should be considered June mail. FBI Headquarters Memo 52-70, dated November 7, 1978, discontinued the June designation but required continued special handling and separate filing of sensitive material. In 1976 extant June mail was indexed into the Central Records System.

"Do Not File" procedures began with a Hoover memorandum dated April 11, 1940. He instructed that memoranda "written merely for informative purposes" would be prepared on blue forms, would not be filed, nor would carbons or abstracts be prepared for those documents. Later, the Do Not File memoranda were typed on pink paper with various annotations indicating that the document should be destroyed after appropriate action, should be returned to the writer, or should be retained in the Director's office.

Do Not File documents were used in sensitive matters, such as illegal breakins and political gossip, but they were used also for policy making and administrative documents in which restricted circulation and filing was desired by the Bureau. Sometimes Do Not File restrictions were struck out by the writer or an Assistant Director, and the documents were in fact serialized and filed in a regular case file.

Hoover and the Executive Conference of the Bureau (composed of Assistant Directors who regularly reviewed FBI policies and procedures, recommended appropriate action, and forwarded the recommendations to Mr. Hoover) attempted to control the growth and filing of the Do Not File materials, and after February 1950, the colored Do Not File memoranda procedure was stopped. However, the procedure was still used on occasion, particularly by L. Patrick Gray, after the discontinuance of the colored forms. As has been the case from the earliest days of the Bureau, documentation of very routine administrative business is not serialized or filed in case files.

Electronic surveillance (ELSUR) refers to both telephone surveillance (wiretap or technical surveillance) and microphone surveillance (bug or electronic listening device). Both techniques have been used by the Bureau since the 1930's, though the legal bases for them changed through the years. The Bureau always considered ELSUR records as sensitive materials. Until recently they were filed in special file rooms, SAC safes, in special drawers in the operational divisions, and with the Do Not File and June mail procedures. In fact most of the records handled as June mail were ELSUR materials.

In the FBI Headquarters Memo 52-78 dated November 7, 1978, the June designation was discontinued, but the memorandum required continued special handling and separate filing of sensitive ELSUR materials. At present, ELSUR records are filed in regular case files (many times as sub-files), indexed in the ELSUR Index, and if the materials are placed in the Headquarters Special File Room, there are cross reference sheets in the case files.

The ELSUR Index maintained in all Field Offices and at Headquarters, was begun in 1966 and includes the names of people who were monitored by the Bureau or were the proprietors of premises in which an ELSUR was conducted since January 1, 1960. There is no procedural cross referencing between the ELSUR Index and the General Index, but it is likely that the subjects of ELSUR operations appear in the General Index as a result of investigative operations.

The personnel records of the FBI are classification 67, but they are maintained separately from the main file room by a unit of the Records Management Division in Headquarters or by the SAC in the Field Offices. There are three categories of files identified numerically by a classification 67 number. The first are the Official Personnel Folders for both out-of-service and in-service personnel. The second category is employment applications, and the third is Special and General Files. The latter include personnel policy matters such as training, overtime, and performance ratings.

Headquarters budget records are maintained in and outside the Central Records System. Approximately 300 feet of budget records, that date from 1939 to the present, are maintained outside of the Central Records System. Some of these records are duplicates of documents included in classification 66 but these

EXHIBIT 5

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

Nos. 84-5058 and 84-5201

HAROLD WEISBERG,

Plaintiff-Appellant,

JAMES H. LESAR,

Appellant,

v.

WILLIAM H. WEBSTER et al.,

Defendants-Appellees.

Nos. 84-5054 and 84-5202

HAROLD WEISBERG,

Plaintiff-Appellant,

JAMES H. LESAR,

Appellant,

v.

FEDERAL BUREAU OF INVESTIGATION et al.,

Defendants-Appellees.

PETITION FOR PERMISSION TO PROCEED OUT OF ORDER
AND ADD TO PETITION FILED JANUARY 9, 1985

Harold Weisberg, Plaintiff-Appellant, petitions for permission to proceed out of order and add to petition filed January 9, 1985.

CONCISE STATEMENT OF REASONS FOR THIS ADDITION TO
PETITION FILED JANUARY 9, 1985

Plaintiff-appellant Weisberg is without counsel for the reasons stated earlier. He is aware that this court frowns upon requests for extension of time or more than 15 pages, but he believes that the information not available to him until after he filed his petition of January 9, 1985, is of such exceptional importance to the nation and to this court, involves the integrity of this court and the judicial system, as he specifies below, that he therefore petitions this

court to accept this addendum to his petition.

BACKGROUND

Although he is not a lawyer, Weisberg was aware of the limitation to 15 pages and to 45 days under the rules of this court. In addition to his serious illnesses, which are documented in the case record and of which the panel was aware, as the case record also reflects this time of the year he is subject to bronchial infections that have had numerous, painful, debilitating and lingering complications. He had such an infection when he drafted his petition and he feared that if he did not file it immediately he might not be able to file it at all, so he filed the retyped rough draft.

Then he received and was able to examine records pertinent in this litigation and withheld from him that were provided to another litigant, Mark Allen, by the FBI.[1/]

This particular batch of FBI JFK assassination records disclosed to Allen relates to FBI SA James P. Hosty, Jr., who, as without contradiction Weisberg attested, was involved in several major public scandals. Yet the supposed Dallas search slip was and throughout the litigation remained blank. Without refutation Weisberg attested to the great volume of Dallas Hosty records that had to be identified in any honest search; that the FBI withheld them because of their embarrassing content (and because it always stonewalls Weisberg); that the FBI had hidden assassination investigation information, among other places, in the Hosty personnel file, which is duplicated at FBIHQ (Weisberg provided the correct file number for it); and that the FBI's attestations were knowingly and deliberately false, which also was not refuted.

1/ Allen's suit is for records made available to the House Select Committee on Assassinations. It duplicates an earlier request made by Weisberg, whose request, as is the FBI's practice, was ignored when Weisberg was not able to file suit.

After a leak there was partial disclosure of records related to one of the incredible Hosty scandals, his destruction after the assassination of a pre-assassination note from Lee Harvey Oswald that Dallas FBI employees who saw it state was a threat to blow up the Dallas FBI office and the police headquarters. Those disclosed records left in doubt whether or not FBIHQ was aware of the Oswald threat and of Hosty's destruction of that note. What was disclosed to Allen and is required to be recorded in the Dallas files and was withheld from Weisberg removes any doubt. The records withheld from Weisberg after attestation to a search for them and of providing everything confirm that withheld relevant information was indeed hidden in Hosty's personnel file, and it, too, is scandalous in nature.

One of the few Weisberg appeals that was acted upon relates to the two field offices' records relating to so-called "critics" of the official solution to the assassination. The FBI was directed to make such a search and process any relevant records. (Weisberg had even provided the correct title and file number of some.) SA John N. Phillips, who had been held not to be competent because he lacked personal knowledge of the investigation by the same panel only two days before it issued its decision in this litigation in which he provided virtually all of the FBI's attestation, attested, as without refutation Weisberg stated, misleadingly, deceptively and falsely to represent that the FBI had no such records. The records disclosed to Allen are shockingly specific in describing the nature of the "critics" records the FBI, and in particular Phillips' own division, knew it had and had at the time of its attestations.

Weisberg alleged that one of the reasons the FBI stonewalls him and refused to make the required searches in this litigation is because it knew that it had never investigated the crime itself and instead had sought only, from the very outset, to make it appear that Oswald was the lone assassin and that there had been no conspiracy. He also alleged that it was less than cooperative with

the Presidential Commission headed by Chief Justice Warren and resented its existence. Records withheld from Weisberg and disclosed to Allen confirm this graphically.

Perhaps most sensational of all is the information withheld from Weisberg but on file in Dallas, just disclosed to Allen, that Oswald, before the assassination, allegedly told the Dallas FBI two times that he had been contacted by the USSR's "MVD!" Also sensational is the statement by a Dallas FBI agent that the alleged Presidential assassin was its informant or source - as Oswald's assassin was.

THE NEW INFORMATION

The character of this relevant and withheld FBI information is such that Weisberg minces no words. He attested repeatedly that SA Phillips lied repeatedly about the alleged nonexistence of relevant ticklers and in particular that it is his and a stock FBI lie in this and in other litigation that ticklers are "routinely destroyed" in a matter of days. The information disclosed to Allen, referred to herein and attached, is from old FBI ticklers that still exist. And these very copies were in Phillips' own division. It thus is apparent that the FBI has lied to the courts "routinely" with regard to the ticklers it does have, that can embarrass it and that it hides them from disclosure when they are not exempt under FOIA.

Attachment A is of Dallas information. The SAs identified were all assigned to the Oswald investigation. (When Fain retired Hosty became the Oswald "case agent.") This states that Oswald "said he had been contacted by the MVD." This information is not included in any Dallas record disclosed to Weisberg and the FBI also withheld it from the Warren Commission. Whether true or not (and as a subject expert Weisberg believes it is not true) it should not have been withheld from the Warren Commission and ought not have been withheld from him in this litigation.

The FBI's outline of its information in Attachment B confirms Weisberg's

beat his wife, hardly a record of nonviolence.) Hosty thus was praised for deceiving, misleading and lying to the Commission with all records withheld and omitted from the search slip.

That a large number of FBI Dallas employees knew about Oswald's pre-assassination threat and its post-assassination destruction and were entirely silent about it throughout the period of the Warren Commission and for more than a decade afterward is explicit in Attachment D. This high-level FBIHQ record reflects that FBIHQ knows its Dallas SA did lie in its reference to "not disciplining others who are not being truthful." (Paragraph 2)

The FBI's general lack of forthrightness and reluctance to provide copies even to the committees of the Congress is reflected in Attachment E. (The records it required the Senate committee to examine at FBIHQ were disclosed to Weisberg under the compulsion of litigation.)

The second Hosty disciplining referred to also is required to be in the Dallas files and index, yet that search slip is as void on this as it is on 100 percent of the many other known Dallas records relating to Hosty. It happens, perhaps by the most remarkable of coincidences, that this disciplining after Director Hoover's personal praise of Hosty was on the first day after page proofs of the Warren Report were disclosed officially.

At least one Dallas FBI SA stated that "Oswald was an informant or source of SA Hosty," yet no such information was disclosed to Weisberg. The FBI here passes this off with a rather large exaggeration, the untruthful claim that this "was looked into by the President's Commission, and there was no substance whatsoever to this particular claim."[2/]

2/ The fact is that the Commission did not and recognized that it could not make any such investigation and that its only source was the FBI's self-serving testimony, of Director Hoover and Assistant Director Belmont. Former CIA Director Dulles, in an executive session transcript Weisberg obtained via FOIA and published in facsimile, told his fellow Commission members that lying about this kind of report is right and proper.

Selected pages of a longer report of the Senate Intelligence Committee's interview of SA Robert M. Barrett, who had been assigned to Dallas, are Attachment F. He confirms (page 5) Weisberg's unrefuted and ignored attestations and appeals, that pertinent and withheld Ruby records are in Dallas files and are withheld: "... opened a PCI case on Ruby." Weisberg correctly identified even the FBI printed form the agents are required to fill out after each contact with any kind of informer. None has been disclosed, Barrett confirms the existence of such a file, known normal FBI practice, and the Barrett confirmation was in Phillips' own Division.

That even FBI SAs knew and admitted that it never intended to investigate the assassination itself, FBI motive for withholding that Weisberg attested to without refutation, is reported on page 13. Barrett denied knowing this but the committee informed him "explicit directions that the investigation was to establish that Oswald acted alone" were reported to it by "other FBI agents." (page 13)

This and other disclosed FBI records, including Attachment B, hold specific reference to an organized crime aspect of official assassination investigations. Yet, as with all else where it is equally false, the FBI represented to the District Court that it required "discovery" from Weisberg - so it could prove "compliance" - so that in some manner neither the district court nor this court's panel was troubled about, "discovery" from Weisberg would permit the FBI to "prove" that it had provided the records it had not searched for, processed or disclosed and knew it had not.

Whether or not true, existing Dallas FBI records reporting that Oswald, the only officially alleged Presidential assassin, had been contacted by the USSR's MVD and at the same time was an FBI informant or source, without doubt exist, without doubt are relevant, without doubt do not appear on the Dallas search slips attested to be all of them and genuine, and without doubt remain withheld from Weisberg. No "discovery" from him is or was necessary for the FBI

to know of the existence of these records and indeed, the very Division that handled them for both the Congress and Allen provided the false attestations by which the defendant-appellant prevailed before the district court and this court.

Without doubt Jack Ruby, who murdered Oswald and thereby eliminated the possibility of any trial, had been an FBI informer and it without doubt had the usual records relating to that association. It without doubt did not require "discovery" from Weisberg to be aware of this. But, as with all other alleged "discovery" matters, he had, in fact, provided this information in detail and with documentation. Yet no search for any of this existing information has ever been made and Weisberg's appeals, falsely represented as acted upon, remain ignored.

The FBI and in particular the very FBI Division that provided uniformly false attestations to the district court knew very well that it had and deliberately withheld by subterfuge and false representation records relating to the so-called "critics" it had been directed to process by the appeals office. The attachment to this petition relating to the "critics" also was in that very Division at the very time it provided sworn misrepresentation and untruth. An obvious reason for the FBI's knowing and deliberate untruthfulness to the courts is found in its own words, that among the dossiers it prepared on these "critics" is what it described as sexual dossiers. This is not a known law-enforcement purpose, not a proper function of any agency of government and is a form of abhorrent police-statism. Even the respected and eminent members of the Warren Commission were not immune in the FBI's quest for the defamatory after it had been mildly criticized.

Certainly the FBI, at either Dallas or FBIHQ, required no "discovery" to be aware of the existing and withheld records relating to the ordered destruction after the assassination of Oswald's threat to bomb delivered to Hosty before the assassination. That the FBI received such a note, destroyed it and then kept this

entirely secret from the Commission and the world - and that Director Hoover praised Hosty for what was known to be perjurious, his false Commission testimony, that Oswald, the self-proclaimed bomber, was a flower boy - may appear to be incredible, but it is confirmed, as is the existence of relevant information withheld in this case; yet without hearing, without finding of fact, in opposition to all of the evidence in the case record, Weisberg and his former counsel in this litigation are to be punished because of the FBI's knowing and deliberate untruthful representations to the district court and to this court.

Only a few days before this panel issued its decision, which ignores all Weisberg's unrefuted attestations to FBI falsification, a member of that panel wrote a decision (Liberty Lobby v Anderson) stating that "It is shameful that Benedict Arnold was a traitor; but he was not a shoplifter to boot, and one should not have been able to make that charge while knowing its falsity with impunity." Benedict Arnold is long dead but the FBI agents who swore falsely not only did so with "impunity" but with acceptance and rewarding by the district court and the panel. Indeed, it is the very same panel which only two days earlier, in the previously cited Shaw case (No. 84-5084), held the very same SA Phillips not competent to provide first-person attestations because he "did not claim any personal participation in the investigation," the identical JFK assassination investigation involved in Weisberg's litigation, yet accepted all of his attestations in Weisberg's litigation even after, without refutation, Weisberg under oath described them as in varying degrees unfactual and possibly perjurious.

The panel thus is inconsistent with itself in the Shaw case and with Liberty Lobby, which was written by a member of the panel.

The FBI records withheld from Weisberg in this litigation and only now are disclosed to Allen are of historical importance that cannot be exaggerated. This is true of their content and in what they reveal about the FBI in that time of great crisis and thereafter; of the FBI in its investigation of that most

subversive of crimes, the assassination of a President; of the FBI's instant preconception and what it did and was willing to do to have its preconception accepted as the official solution; of its domination of even a Presidential Commission and its ability to control who would - and who would not - run the Commission's investigation; of the FBI's policy of defaming those who did not agree with its instant preconception, its "sex dossiers" on the critics and even its preparation of dossiers, after the Commission's Report was published, on the eminent members and on its staff. What the attached records, the FBI's own reveal about the FBI completely supports what Weisberg attested to based upon other records which likewise provide it with motive for stonewalling, noncompliance, any and every false pretense necessary to suppress what is embarrassing to it, up to and including perjury.

This previously secret FBI information is so utterly destructive of all its representations under oath and by its counsel that officially withholding it and representing the opposite of what it says and means undermines the constitutional independence of the judiciary. This new information is pungent confirmation of what Weisberg had alleged under oath and under penalty of perjury. It was not refuted yet was not credited by the panel, which depended instead upon what the case record disclosed is untrue. In the panel's acceptance of and dependence upon what Weisberg characterized as deliberate lies, the integrity of this court itself is involved even more by this new information.

For these additional reasons and proofs in this new information that was improperly withheld from him and was not available earlier, Weisberg prays that his petition be granted and that it lead to a full and impartial judicial inquiry into the abuses documented with the FBI's own to now secret records.

Respectfully submitted,

Harold Weisberg, pro se
7627 Old Receiver Road
Frederick, MD 21701

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(3) This phase of the investigation was handled solely former SA JOHN W. FAIN.

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SECRET

Attachment B

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1. Early teletypes; instructions to field; Hoover, Sullivan, Belmont memos; 80 agents to Dallas

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1. Establishing chain of evidence, bullet to gun, etc.

2. [redacted]

3. Hasty note destruction: handling by Bureau on Nov 24 and effect in subsequent days

4. Interviews of Oswald associates, Marina wiretap M. MAINES, ETC

C. Jack Ruby

1. Basic facts, early memos

2. Hoover suspicion of basement entry and assistance

3. Extensive teletypes and reports on organized crime connections, also Hoover's own memos

4. contacts in 1959 as P.C.I - for use as informer on criminal element in Dallas

SECRET

Doc #1

SECRET

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2. Hoover and Belmont memos
3. Organization chart

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2. Supervisors Senate testimony on physical evidence chain
3. Sullivan on lack of communication with Domestic Intelligence - the Division running the probe of LHO
   LACK OF COORDINATION BETWEEN DIV 5+6.
4. Rosen characterization of FBI "standing with pockets open waiting for evidence to drop in"
5. Supervisors testimony on LHO not being included in G.I.D. probe other than in relation to physical evidence
6. Rosen didn't know of "Gale Report" which found deficiencies in Bureau coverage of Oswald
   DID NOT INITIAL IT.

C. Domestic Intelligence Division D.I.D. DIV. 5

1. LHO background established, prior coverage
2. Sullivan testimony on chaotic process, lack of input
3. Soviet experts handled Oswald investigation
4. Secret disciplining of DID officials who handled pre-assassination investigation of Oswald
5. Incident of Sullivan's people copying GID files
6. Hosty note destruction: Sullivan lack of knowledge
7. Assignment of Ruby probe to Civil Rights Division - outside of DID jurisdiction, thus not a part of general Oswald investigation.

SECRET

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1. Cancellation of orders to contact Cuban sources on Nov 23

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3. Deletion of [redacted] (S-1)(S) from memo provided to Commission (S-2)(S)

4. Cuban experts and supervisors excluded from investigation b1

5. Church Committee findings on narrow Cuban focus

6. [redacted] (S-1)(S)

C. Investigation of Potential Organized Crime Aspects

1. Hoover memos and teletypes on Ruby connections

2. Ruby phone records

3. Justice Dept. interest in probing O.C. aspects

4. Chicago interviews with Ruby associates

5. Evans and Staffold (and Demaby and Stanley) statements on not being consulted

6. Use of Ruby as informant on Dallas criminal element

7. LCN sources available at time

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A. Formation of Warren Commission

1. Hoover opposition: memo and Jenkins memo

2. Katzenbach testimony and Sullivan statement

3. Early memos - adversary relationship

4. Hoover blocking Warren's choice for general counsel

5. Preparation of dossiers on staff and members.

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4. Hoover instructions to agents not to volunteer info. to WC
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7. Hoover instructions ordering that no Bureau official attend earliest WC session, despite Katzenbach request
8. Delay in sending information to Commission regarding Bureau's past nine contacts with Ruby
9. Apparent withholding of "oswald impostor" memos of 1960-1961

Referred [redacted]

11. Handling of Ruby polygraph

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SEPT. 24 1964

1. Preparation of dossiers on WC staff after the Report was out
2. Hoover's leaking of early FBI report (Sullivan statement)
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5. Secret plan to distribute Oswald-Marxist posters in Bureau plan to discredit Communist Party; prejudicial aspects
6. Hoover reaction to Warren Report
7. Subsequent preparation of sex dossiers on critics of probe
8. Questions regarding FBI's continual pledge that "case will remain open for all time;" actual designation of it as "closed" in internal Bureau files.

Attachment C

UNITED STATES GOVERNMENT

Memorandum

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

TO : Director, FBI (PERSONAL & CONFIDENTIAL) DATE: 10/24/73

FROM : SA JAMES P. HOSTY, JR.
KANSAS CITY OFFICE

SUBJECT: PERSONNEL MATTER

In compliance with your instructions following our conversation in Kansas City on 10/19/73, I am setting forth the basic facts that we discussed. I am convinced that the administrative action taken against me in December, 1963, and again in October, 1964, was unjustified for the following reasons:

(1) The letter of censure in December, 1963, and the suspension in October, 1964, were based upon answers to questions telephonically furnished by former Assistant Director James Gale on 12/5/63. I answered these questions by memo to the SAC in Dallas dated 12/6/63.

About four years ago I had an opportunity to review my field personnel file in the Kansas City Office and noted that Serial 157 of the Dallas section of this file contains answers dated 12/8/63, which are not the same answers I submitted on 12/6/63. Most particularly I object to the answers to Questions 5 and 6 that appear in my personnel file. I am enclosing a copy of my memo to the SAC, Dallas, dated 12/6/63, which you will note is different from the one appearing in my personnel file.

REC 15 62-494017-191

I am aware, however, that former Supervisor Kenneth Howe did make alterations to my answers without my advice or consent, but with my knowledge. I am enclosing a copy of my memo to the SAC, Dallas, dated 12/6/63, with his corrections, and a copy of a routing slip from Howe to me furnishing me with the corrections. However, the answers appearing in my personnel file are not these answers either. It appears my answers were changed a second time, probably on 12/8/63, without my knowledge. The most obvious change is the false answer to Questions 5 and 6, in which I am falsely quoted as saying, "Perhaps I should have notified the Bureau earlier." This constitutes an admission of guilt, which I did not make at any time.

JPH:mfd (enc. 4)

ENCLOSURE

MOVED BY SPECIAL AGENT

NOV 27 1973

3 1 7 3

Doc #34

As to the motive for the above and the persons responsible, I believe the third paragraph of [redacted] letter dated [redacted] pretty well pinpoints the responsibility. I am enclosing a copy of this letter. b6

(2) The letter of censure and suspension dated October, 1964, constitutes double jeopardy based upon the letter of censure dated December, 1963. The only thing added to the letter of October, 1964, was the statement that I made inappropriate remarks before a Hearing Board. Yet former Director Hoover personally advised me on 5/6/64, and SAC Gordon Shanklin of the Dallas Office in June, 1964, that my testimony before the Warren Commission was excellent. The Bureau had a summary of my testimony on 5/6/64, and the full test of my testimony one week later, five months before my letter of censure in October, 1964, and no mention was made at any time concerning my inappropriate remarks until October, 1964. Mr. Hoover also assured me on 5/6/64, that the Warren Commission would completely clear the FBI. The unexpected failure of the Warren Commission to do this, I believe, was the principal reason for my second letter of censure and suspension in October, 1964.

(3) The matters covered in both letters of censure had no bearing whatsoever on the outcome of the case; namely, the prevention of the assassination of President Kennedy.

In accordance with your specific request on 10/19/73, the following should be noted regarding the failure to place Lee Harvey Oswald on the Security Index:

Oswald was not on the Security Index because he did not fit the criteria in existence as of 11/22/63. The criteria was later changed to include Oswald. It should be noted, however, even if he had been on the Security Index, no specific action would have been taken regarding him or any other Security Index subject at the time of President Kennedy's visit to Dallas.

The FBI as of 11/22/63, had only one responsibility regarding presidential protection, at the insistence of the U. S. Secret

Service. The responsibility was to furnish the Secret Service any information on persons making direct threats against the President, in possible violation of Title 18, USC, Section 871. I personally participated in two such referrals immediately prior to 11/22/63.

In conclusion, [redacted] in his letter dated [redacted] sums up my attitude in this matter that because of the action taken by the Bureau in October, 1964, the Bureau in effect told the world I was the person responsible for President Kennedy's death. b6

On 10/19/73, you asked me what I think should be done. I believe that it first must be determined if I was derelict in my duty in any manner, and was responsible for President Kennedy's death. After that it should be determined what damages I suffered, and then we can discuss the third point - what action should be taken.

I can state with a perfectly clear conscience that I in no way failed to do what was required of me prior to 11/22/63, and based upon information available to me, which was not all the information available to the U. S. Government on 11/22/63. I had absolutely no reason to believe that Oswald was a potential assassin or dangerous in any way.

I have no desire to blame anyone else or to seek an alternate scapegoat. I am firmly convinced, despite the totally unjustified conclusion of the Warren Commission, that the FBI was not in any way at fault.

In accordance with your instructions, I will not discuss the contents of this letter with anyone. In the event you want further clarification on any point, I will gladly furnish additional information to you.

Attachment D

UNITED STATES GOVERNMENT

Memorandum

TO : MR. HELD

DATE: 8/17/76

FROM : H. N. BASSETT

SUBJECT: ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

[redacted] b6

PURPOSE:

On 10/21/75 Mr. Adams testified before a Congressional Committee relative to Lee Harvey Oswald's visit to the Dallas Office prior to the assassination of President Kennedy, his leaving of a note and its subsequent destruction. A question was raised at that time and subsequently by the press as to what disciplinary action the Bureau planned on taking. The Bureau's official stance was that since the matter was still pending before Congressional Committees, no action would be taken until conclusion of their inquiries. This matter has been followed since that time. Mr. Mintz has advised that since the Congressional inquiries are now concluded, he sees no reason to delay further administrative action. The purpose of this memorandum, therefore, is to analyze this situation and to submit appropriate recommendations.

SYNOPSIS:

b6 [redacted]

7 SEP 10 1976

During Mr. Adams' testimony when the issue of possible disciplinary action was raised, he pointed out that this was a grave responsibility and a grave matter to consider since we must recognize the possibility that in the passage of time recollections may be hazy. Further, consideration had to be given to possibly disciplining some who have been as candid as they can within the bounds of their recollections and yet not disciplining others who are not being truthful.

As a result of the inquiry, it was positively established that there were four principals involved, namely, Nannie Lee Fenner, SA Kenneth C. Howe, SA James P. Hosty, Jr., and retired SAC Gordon Shanklin. Since the inquiry Fenner and Howe have retired.

13 SEP 9 1976

Excluding Hosty, there are 16 current employees who, during the inquiry, admitted to varying degrees some knowledge of Oswald's visit, the note and the destruction. Some of the information they furnished was

1 - Messrs. Adams, Jenkins, Mintz, Walsh
HNB:jmb
(6)

[Letter of Censure SVC CJW 9/7/76]

7 SEP 21 1976

CONTINUED - OVER

subversive of crimes, the assassination of a President; of the FBI's instant preconception and what it did and was willing to do to have its preconception accepted as the official solution; of its domination of even a Presidential Commission and its ability to control who would - and who would not - run the Commission's investigation; of the FBI's policy of defaming those who did not agree with its instant preconception, its "sex dossiers" on the critics and even its preparation of dossiers, after the Commission's Report was published, on the eminent members and on its staff. What the attached records, the FBI's own reveal about the FBI completely supports what Weisberg attested to based upon other records which likewise provide it with motive for stonewalling, noncompliance, any and every false pretense necessary to suppress what is embarrassing to it, up to and including perjury.

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SECRET

Doc #1

SECRET

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Asst. Dir.
Admin.
Comp. Syst.
Ext. Affairs
Files & Com.
Gen. Inv.
Ident.
Inspection
Intell.
Laboratory
Plan. & Eval.
Spec. Inv.
Training
Legal Coun.
Telephone Rm.
Director Sec'y

TO : Director, FBI (PERSONAL & CONFIDENTIAL) DATE: 10/24/73

FROM : SA JAMES P. HOSTY, JR.
KANSAS CITY OFFICE

SUBJECT: PERSONNEL MATTER

In compliance with your instructions following our conversation in Kansas City on 10/19/73, I am setting forth the basic facts that we discussed. I am convinced that the administrative action taken against me in December, 1963, and again in October, 1964, was unjustified for the following reasons:

(1) The letter of censure in December, 1963, and the suspension in October, 1964, were based upon answers to questions telephonically furnished by former Assistant Director James Gale on 12/5/63. I answered these questions by memo to the SAC in Dallas dated 12/6/63.

About four years ago I had an opportunity to review my field personnel file in the Kansas City Office and noted that Serial 157 of the Dallas section of this file contains answers dated 12/8/63, which are not the same answers I submitted on 12/6/63. Most particularly I object to the answers to Questions 5 and 6 that appear in my personnel file. I am enclosing a copy of my memo to the SAC, Dallas, dated 12/6/63, which you will note is different from the one appearing in my personnel file.

REC 15 62-494017-191

I am aware, however, that former Supervisor Kenneth Howe did make alterations to my answers without my advice or consent, but with my knowledge. I am enclosing a copy of my memo to the SAC, Dallas, dated 12/6/63, with his corrections, and a copy of a routing slip from Howe to me furnishing me with the corrections. However, the answers appearing in my personnel file are not these answers either. It appears my answers were changed a second time, probably on 12/8/63, without my knowledge. The most obvious change is the false answer to Questions 5 and 6, in which I am falsely quoted as saying, "Perhaps I should have notified the Bureau earlier." This constitutes an admission of guilt, which I did not make at any time.

JPH:mfd (enc. 4)

ENCLOSURE

MOVED BY SPECIAL AGENT

NOV 27 1973

3 1 7 3

Doc #34

As to the motive for the above and the persons responsible, I believe the third paragraph of [redacted] letter dated [redacted] pretty well pinpoints the responsibility. I am enclosing a copy of this letter. b6

(2) The letter of censure and suspension dated October, 1964, constitutes double jeopardy based upon the letter of censure dated December, 1963. The only thing added to the letter of October, 1964, was the statement that I made inappropriate remarks before a Hearing Board. Yet former Director Hoover personally advised me on 5/6/64, and SAC Gordon Shanklin of the Dallas Office in June, 1964, that my testimony before the Warren Commission was excellent. The Bureau had a summary of my testimony on 5/6/64, and the full test of my testimony one week later, five months before my letter of censure in October, 1964, and no mention was made at any time concerning my inappropriate remarks until October, 1964. Mr. Hoover also assured me on 5/6/64, that the Warren Commission would completely clear the FBI. The unexpected failure of the Warren Commission to do this, I believe, was the principal reason for my second letter of censure and suspension in October, 1964.

(3) The matters covered in both letters of censure had no bearing whatsoever on the outcome of the case; namely, the prevention of the assassination of President Kennedy.

In accordance with your specific request on 10/19/73, the following should be noted regarding the failure to place Lee Harvey Oswald on the Security Index:

Oswald was not on the Security Index because he did not fit the criteria in existence as of 11/22/63. The criteria was later changed to include Oswald. It should be noted, however, even if he had been on the Security Index, no specific action would have been taken regarding him or any other Security Index subject at the time of President Kennedy's visit to Dallas.

The FBI as of 11/22/63, had only one responsibility regarding presidential protection, at the insistence of the U. S. Secret

Service. The responsibility was to furnish the Secret Service any information on persons making direct threats against the President, in possible violation of Title 18, USC, Section 871. I personally participated in two such referrals immediately prior to 11/22/63.

In conclusion, [redacted] in his letter dated [redacted] sums up my attitude in this matter that because of the action taken by the Bureau in October, 1964, the Bureau in effect told the world I was the person responsible for President Kennedy's death. b6

On 10/19/73, you asked me what I think should be done. I believe that it first must be determined if I was derelict in my duty in any manner, and was responsible for President Kennedy's death. After that it should be determined what damages I suffered, and then we can discuss the third point - what action should be taken.

I can state with a perfectly clear conscience that I in no way failed to do what was required of me prior to 11/22/63, and based upon information available to me, which was not all the information available to the U. S. Government on 11/22/63. I had absolutely no reason to believe that Oswald was a potential assassin or dangerous in any way.

I have no desire to blame anyone else or to seek an alternate scapegoat. I am firmly convinced, despite the totally unjustified conclusion of the Warren Commission, that the FBI was not in any way at fault.

In accordance with your instructions, I will not discuss the contents of this letter with anyone. In the event you want further clarification on any point, I will gladly furnish additional information to you.

Attachment D

UNITED STATES GOVERNMENT

Memorandum

TO : MR. HELD

DATE: 8/17/76

FROM : H. N. BASSETT

SUBJECT: ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

[redacted] b6

PURPOSE:

On 10/21/75 Mr. Adams testified before a Congressional Committee relative to Lee Harvey Oswald's visit to the Dallas Office prior to the assassination of President Kennedy, his leaving of a note and its subsequent destruction. A question was raised at that time and subsequently by the press as to what disciplinary action the Bureau planned on taking. The Bureau's official stance was that since the matter was still pending before Congressional Committees, no action would be taken until conclusion of their inquiries. This matter has been followed since that time. Mr. Mintz has advised that since the Congressional inquiries are now concluded, he sees no reason to delay further administrative action. The purpose of this memorandum, therefore, is to analyze this situation and to submit appropriate recommendations.

SYNOPSIS:

b6 [redacted]

7 SEP 10 1976

During Mr. Adams' testimony when the issue of possible disciplinary action was raised, he pointed out that this was a grave responsibility and a grave matter to consider since we must recognize the possibility that in the passage of time recollections may be hazy. Further, consideration had to be given to possibly disciplining some who have been as candid as they can within the bounds of their recollections and yet not disciplining others who are not being truthful.

As a result of the inquiry, it was positively established that there were four principals involved, namely, Nannie Lee Fenner, SA Kenneth C. Howe, SA James P. Hosty, Jr., and retired SAC Gordon Shanklin. Since the inquiry Fenner and Howe have retired.

13 SEP 9 1976

Excluding Hosty, there are 16 current employees who, during the inquiry, admitted to varying degrees some knowledge of Oswald's visit, the note and the destruction. Some of the information they furnished was

1 - Messrs. Adams, Jenkins, Mintz, Walsh
HNB:jmb
(6)

[Letter of Censure SVC CJW 9/7/76]

7 SEP 21 1976

CONTINUED - OVER

at variance with information furnished by others, but there was no way to establish whether they were being untruthful or the passage of time had simply made it impossible to recall the events. The main fact, however, was that none of these individuals played any role in the handling or destruction of the note. Moreover, without exception, when asked why they had not brought the matter to the attention of their superiors, they advised that they assumed a matter of such gravity would have been brought to the attention of the SAC.

There are eight current employees who disclaim any knowledge of the matter whatsoever. There is no reason to question the veracity of these denials yet the inquiry certainly established a large number of individuals had some knowledge but were not directly connected with the incident. Furthermore, not everyone assigned to Dallas at the time of the assassination was interviewed simply because there was no logical reason to do so. It is possible that they too may have known of the situation and would truthfully inform us of it, thus raising the question: Is it fair to take action against those who were candid with us when there are others where no action would be taken simply because there was no reason to interview? [redacted] b6

It is possible that we will never know what really happened. We know that the Congressional Committees did not establish anything that our inquiry did not. If Hosty is telling the truth and he destroyed the note on the instructions of the SAC, this must be taken into consideration even though former SAC Shanklin denies any knowledge of the matter whatsoever. Also, it must be considered that Hosty has already paid a heavy price. He was in effect placed in position of double jeopardy when censured and placed on probation in 1963 and, with no really new information developed, later was censured, placed on probation, suspended for 30 days, and transferred. He was denied a within-grade increase because of this latter action for almost a nine-month period [redacted] b6

CONTINUED - OVER

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

RECOMMENDATIONS:

1. That no action be taken against those employees listed in the details of this memorandum who admit some knowledge of the matter but are not directly related to the incident.

[redacted]

b6

APPROVED:
Asst. Dir.
Adm. Serv.
Inspection
Intell.
Laboratory
Legal Coun.
Plan. & Eval.
Rec. Mgmt.
Spec. Inv.
Training

SEE DETAILS NEXT PAGE.

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

DETAILS:

On 10/21/75 Mr. Adams testified before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. On that occasion Mr. Adams discussed in detail the inquiry conducted by the Bureau relative to Lee Harvey Oswald's visit to the Dallas Office prior to the assassination of President Kennedy and the note left by Oswald and its subsequent destruction. During that testimony the issue of possible disciplinary action was raised and Mr. Adams, in essence, pointed out that this was a grave responsibility and a grave matter to consider since we must recognize the possibility that in view of the passage of time, recollections may be hazy. Further, consideration had to be given to possibly disciplining some who have been as candid as they can within the bounds of their recollection and yet not disciplining others who are not being truthful.

Shortly after Mr. Adams' testimony press inquiries were received as to what action the Bureau planned on taking, and the official Bureau stance was that since the matter was still pending before Congressional Committees, no action would be taken at that time.

This matter has been followed on a 30-day basis with Mr. Mintz. On 8/13/76 Mr. Mintz advised that he had been informed by [redacted] that testimony taken by the Edwards Committee has not yet been printed and it is unlikely that the hearings will be printed. Further, Congressman Edwards has no plan at this time to issue a report stating any conclusion regarding this matter. His intention was to await the outcome of the Church Committee inquiry to determine whether the Church Committee developed any facts at variance with the testimony offered before the Edwards Committee. According to [redacted] apparently no inconsistent facts were developed by the Church Committee. Mr. Mintz also advised that it was recommended by the Church Committee that the Inouye Committee continue the inquiry regarding President Kennedy's assassination, but the Inouye Committee has not acted to authorize a continuation of that inquiry as yet. William Miller, Staff Director of the Inouye Committee, advised [redacted] on 8/12/76 that the Inouye Committee will adopt the recommendation to continue the inquiry; however, it is not believed that their inquiry would be directed at the Oswald visit, the note and destruction of same. Mr. Mintz advised, therefore, that the Congressional inquiries are now concluded and sees no reason to delay further administrative action in this matter.

As Appears in admin Folder.

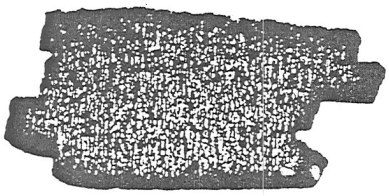
CONTINUED - OVER

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

As may be recalled, the Bureau was able to determine that there were four principals involved in the matter at hand, namely, Nannie Lee Fenner, SA Kenneth C. Howe, SA James P. Hosty, Jr., and SAC Gordon Shanklin. At the time of our inquiry Shanklin was the only one of the four in a retired status. Since that time, however, Fenner retired 3/12/76 and Howe retired 6/18/76.

Briefly, the facts developed were that Oswald did indeed visit our Dallas Office sometime prior to the assassination of President Kennedy. He delivered a note to Mrs. Fenner. She claimed the note was threatening in nature and said something to the effect, "Let this be a warning. I'll blow up the FBI and the Dallas Police Department if you don't stop bothering my wife." The note was addressed to SA Hosty. She claimed she showed the note to the then ASAC Kyle Clark (now retired) who instructed her to give it to Hosty. Howe, then the supervisor of Hosty, could not remember the contents of the note but seemed to recall it contained some type of threat. Howe seemed to recall that he found the note in Hosty's workbox probably about the day of the assassination and brought the note to SAC Shanklin. Hosty admits the existence of the note, claims it was not threatening in nature, and that he destroyed the note upon the instructions of SAC Shanklin. Shanklin disclaimed any knowledge whatsoever of the matter.

In conducting our inquiry we learned that several people were aware to some degree that Oswald had visited the office and left a note for Hosty. In talking to these people, without exception, when asked why they had not brought the matter to the attention of their superiors, they advised they simply assumed that a matter of such gravity would have been reported to the SAC. They advised generally that they acquired the information through conversations with other people well after the incident had occurred. Some of these people furnished information at variance with that furnished by others, leading one to raise the question as to whether they were being untruthful or whether the passage of time had simply made it impossible to recall the events. The main fact, however, with regard to all of these individuals is that none of them played any part whatsoever in the handling of the note as outlined previously. Those people who are still employed who had some knowledge of this matter in varying degrees are as follows:



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CONTINUED - OVER

1 - Mr. J. B. Adams
1 - Mr. H. N. Bassett
2 - Mr. J. A. Mintz
(1 - Mr. J. B. Hotis)
1 - Mr. W. R. Wannall
1 - Mr. W. O. Cregar

62-116395

December 31, 1975

1 - Mr. F. Woodworth
1 - Mr. J. P. Thomas
1 - Mr. T. J. McNiff

U. S. SENATE SELECT COMMITTEE TO
STUDY GOVERNMENTAL OPERATIONS WITH
RESPECT TO INTELLIGENCE ACTIVITIES (SSC)

Reference is made to SSC letter dated December 11, 1975, requesting access to various materials contained in Bureau files relating to this Bureau's investigation of Lee Harvey Oswald and/or the assassination of President John F. Kennedy. Set forth below is this Bureau's response to indicated items mentioned in referenced letter. Responses to the remaining items are being prepared and you will be advised when such preparations have been completed.

Item 1 references the July 6, 1964, memorandum from C. R. Davidson to Mr. Callahan, which was provided by this Bureau in response to SSC inquiry dated November 18, 1975, and requests materials pertaining to the December 13, 1963, censuring and probation of Special Agent (SA) James P. Hosty, Jr. No memorandum dated July 6, 1964, could be located as having been furnished the SSC as stipulated above. It is believed the above request refers to the April 6, 1964, memorandum from C. R. Davidson which was made available to the SSC in response to the latter's request of November 18, 1975. Materials responsive to all sections of Item 1 are available at FBI Headquarters for review by appropriate SSC personnel. This material, for reasons of privacy, has been excised to delete names of individuals, other than SA Hosty, against whom administrative action was taken.

Item 2 requests materials similar to that requested in Item 1, as such materials pertain to the censuring of SA Hosty on or about September 25, 1964.

TJM:lhb
(12) ORIGINAL AND ONE COPY TO AG

SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES (SSC)

Materials responsive to Item 2, excised for reasons stated above, are available at FBI Headquarters for review by appropriate SSC personnel.

Item 15 requests all materials pertaining to the meeting subsequent to November 24, 1963, and prior to the submission of the Bureau's initial report to the White House, which meeting is more fully referenced in the September 23, 1975, affidavit of former SA Henry A. Schutz, in response to Item 5 of the SSC's request dated October 31, 1975. The Inspection Division of this Bureau made no further inquiry concerning information in former SA Schutz's affidavit other than it should be noted all Bureau officials and supervisory personnel were interviewed by the Inspection Division concerning Oswald's visit to the Dallas Office prior to the assassination and his leaving of a note for SA Hosty. No additional information was developed concerning the meeting at the office of former Bureau official Mr. Alan Belmont, and, in fact, the only Bureau official who claimed to have any knowledge of such a visit and note was W. C. Sullivan. The SSC has previously been furnished the results of all interviews conducted of Bureau officials and supervisory Agents concerning this matter.

Item 16 requests all materials, reports, analysis or inquiries conducted as a result of the statement by SA Joe A. Pearce that "Oswald was an informant or source of SA Hosty and it was not uncommon for sources to occasionally come to the office for the purpose of delivering some note to the contacting Agent." The above quoted statement is contained in an affidavit furnished by SA Pearce to the Inspection Division during the latter's inquiry concerning the Oswald visit to the Dallas Office and his leaving a note for SA Hosty. However, in reporting the results of this interview to the Attorney General earlier this year, attention was directed to the fact that this allegation concerning Oswald's being a source or informant of SA Hosty was looked into by the President's Commission, and there was no substance whatsoever to this particular claim.

1 - The Attorney General

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
Birmingham, Alabama
December 24, 1975

Attachment
F

In Reply, Please Refer to
File No.

SENATE SELECT COMMITTEE ON
INTELLIGENCE ACTIVITIES
INTERVIEW OF SPECIAL AGENT
ROBERT M. BARRETT,
DECEMBER 17, 1975

I, Special Agent Robert M. Barrett, was interviewed by Committee Staff member Paul Wallach, in Room 608, Carroll Arms, Washington, D.C. The interview began at 2:02 PM and was recorded by Mr. Alfred H. Ward.

At the outset, Mr. Wallach advised that the Committee was attempting to determine whether or not there was any basis for reopening of the case of the assassination of President John F. Kennedy. He further stated the Committee was reviewing the activities of the Federal Bureau of Investigation (FBI) before and after the assassination.

Mr. Wallach asked when I arrived in Washington, D.C., and how I received notice to come to Washington, D. C., for this interview. He was told I arrived about 5:45 PM on December 16, 1975, and that on Friday, December 12, 1975, I had received notice of a teletype from FBI Headquarters to my office in Birmingham, Alabama, instructing me to report to Washington, D.C., on December 17, 1975, for this interview.

Mr. Wallach asked if I had conferred with any Bureau officials prior to this interview. I informed him that I had met with Inspector John Hotis of the Legal Counsel Division. Mr. Wallach asked for the contents of this discussion and I advised him that I had asked Mr. Hotis if he knew the reason why I was being interviewed by the Committee, and that Mr. Hotis had stated he did not know the reason or purpose other than it concerned my role in the assassination investigation.

[redacted]

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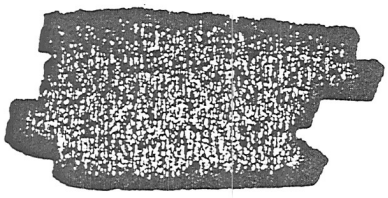
1

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

As may be recalled, the Bureau was able to determine that there were four principals involved in the matter at hand, namely, Nannie Lee Fenner, SA Kenneth C. Howe, SA James P. Hosty, Jr., and SAC Gordon Shanklin. At the time of our inquiry Shanklin was the only one of the four in a retired status. Since that time, however, Fenner retired 3/12/76 and Howe retired 6/18/76.

Briefly, the facts developed were that Oswald did indeed visit our Dallas Office sometime prior to the assassination of President Kennedy. He delivered a note to Mrs. Fenner. She claimed the note was threatening in nature and said something to the effect, "Let this be a warning. I'll blow up the FBI and the Dallas Police Department if you don't stop bothering my wife." The note was addressed to SA Hosty. She claimed she showed the note to the then ASAC Kyle Clark (now retired) who instructed her to give it to Hosty. Howe, then the supervisor of Hosty, could not remember the contents of the note but seemed to recall it contained some type of threat. Howe seemed to recall that he found the note in Hosty's workbox probably about the day of the assassination and brought the note to SAC Shanklin. Hosty admits the existence of the note, claims it was not threatening in nature, and that he destroyed the note upon the instructions of SAC Shanklin. Shanklin disclaimed any knowledge whatsoever of the matter.

In conducting our inquiry we learned that several people were aware to some degree that Oswald had visited the office and left a note for Hosty. In talking to these people, without exception, when asked why they had not brought the matter to the attention of their superiors, they advised they simply assumed that a matter of such gravity would have been reported to the SAC. They advised generally that they acquired the information through conversations with other people well after the incident had occurred. Some of these people furnished information at variance with that furnished by others, leading one to raise the question as to whether they were being untruthful or whether the passage of time had simply made it impossible to recall the events. The main fact, however, with regard to all of these individuals is that none of them played any part whatsoever in the handling of the note as outlined previously. Those people who are still employed who had some knowledge of this matter in varying degrees are as follows:



As appears in admin folder.

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

[redacted]

As Appears in admin. Folder

On the other hand, there were people in the Dallas Office who disclaimed any knowledge whatsoever of the matter, they being [redacted] While we have no information at all questioning the veracity of the denials of these individuals, the inquiry covering interviews with both current and former employees certainly established a large number of them had some knowledge of the matter but were not directly connected with the incident. Therefore, to take action against those employees who admit some knowledge but were not directly connected with the incident and at the same time take no action against those denying knowledge could be an injustice to all concerned.

Another thing to take into consideration is the fact that everyone who was assigned to Dallas at the time of the assassination was not interviewed. Many of them are current employees assigned to various offices. They were not interviewed simply because there was no logical reason to do so. It is possible that they too may have known of the matter and would truthfully inform us of it, but here again we are placed in the same position as we are now with regard to those people we did interview. All things considered, it is not felt that any action should be taken against the aforenamed individuals who are currently on our rolls [redacted] b6

With regard to Hosty, he claims he was instructed by the SAC to destroy the note. We probably will never know the facts as to whether this actually occurred. It is our understanding that the Congressional Committees never learned of anything other than what we developed in our inquiry. If Hosty indeed destroyed the note on the instructions of the SAC, he was following the instructions of his superior and this must be taken into

CONTINUED - OVER

consideration. Also taken into consideration is the fact that Hosty suffered considerably many years ago. In fact, Hosty in effect was placed in double jeopardy. On 12/13/63 he was censured and placed on probation for inadequate investigation. With really no new information developed concerning Hosty, later he was censured, placed on probation, suspended for 30 days, and transferred to Kansas City. This action occurred in October, 1964. He was eligible for within-grade increase beginning 9/27/64 but was not given same and, in fact, was finally granted a within-grade increase 6/20/65. As can be seen, Hosty has already paid a heavy penalty.

[redacted]

b6

[redacted]

Attachment E

Oswald +

1 - Mr. J. B. Adams
1 - Mr. H. N. Bassett
2 - Mr. J. A. Mintz
(1 - Mr. J. B. Hotis)

December 31, 1975

1 - Mr. W. R. Wannall
1 - Mr. W. O. Cregar
1 - Mr. F. Woodworth
1 - Mr. J. P. Thomas
1 - Mr. T. J. McNiff

The Attorney General

Director, FBI

U. S. SENATE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES (SSC)

Reference is made to SSC letter dated December 11, 1975, requesting access to various materials contained in Bureau files relating to this Bureau's investigation of Lee Harvey Oswald and/or the assassination of President John F. Kennedy.

Enclosed for your approval and forwarding to the SSC is the original of a memorandum which constitutes a partial response to the requests contained in referenced SSC letter.

A copy of the above memorandum is being furnished for your records.

Enclosures (2)

62-116395

1 - The Deputy Attorney General
Attention: Michael E. Shaheen, Jr.
Special Counsel for
Intelligence Coordination

TJM:adn/lhb
(13)

Doc #66 66

1 - Mr. J. B. Adams
1 - Mr. H. N. Bassett
2 - Mr. J. A. Mintz
(1 - Mr. J. B. Hotis)
1 - Mr. W. R. Wannall
1 - Mr. W. O. Cregar

62-116395

December 31, 1975

1 - Mr. F. Woodworth
1 - Mr. J. P. Thomas
1 - Mr. T. J. McNiff

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STUDY GOVERNMENTAL OPERATIONS WITH
RESPECT TO INTELLIGENCE ACTIVITIES (SSC)

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TJM:lhb
(12) ORIGINAL AND ONE COPY TO AG

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1 - The Attorney General

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
Birmingham, Alabama
December 24, 1975

Attachment F

In Reply, Please Refer to File No.

SENATE SELECT COMMITTEE ON
INTELLIGENCE ACTIVITIES
INTERVIEW OF SPECIAL AGENT
ROBERT M. BARRETT,
DECEMBER 17, 1975

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At the outset, Mr. Wallach advised that the Committee was attempting to determine whether or not there was any basis for reopening of the case of the assassination of President John F. Kennedy. He further stated the Committee was reviewing the activities of the Federal Bureau of Investigation (FBI) before and after the assassination.

Mr. Wallach asked when I arrived in Washington, D.C., and how I received notice to come to Washington, D. C., for this interview. He was told I arrived about 5:45 PM on December 16, 1975, and that on Friday, December 12, 1975, I had received notice of a teletype from FBI Headquarters to my office in Birmingham, Alabama, instructing me to report to Washington, D.C., on December 17, 1975, for this interview.

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[redacted]

81

I told Mr. Wallach that Mr. Hotis had further informed me that I should decline to answer any questions as to sensitive sources, sensitive techniques, on-going investigations, and any information received from a third agency.

Mr. Wallach asked if I had talked to Mr. Paul Daly, and he was informed Mr. Daly was in and out of the office frequently and that I had had very little conversation with him. Mr. Wallach asked how long I had talked with Mr. Hotis, and I told him the above conversation was very brief, that I was originally informed the interview was to take place at 10:00 AM, that this was subsequently changed to 2:00 PM and that I had spent the time in Mr. Hotis' office waiting and occasionally discussing other unrelated matters.

I also told Mr. Wallach that I had been interviewed earlier on December 17, 1975, by Assistant Director Harold N. Bassett, and Deputy Assistant Director J. Allison Conley. Mr. Wallach asked what this interview was about, and I told him I was questioned as to any knowledge I had of Lee Harvey Oswald coming to the FBI Office in Dallas prior to the assassination and leaving a note for Special Agent James Hosty. I told Mr. Wallach what I had previously told Mr. Bassett, that some four or five months after the assassination I was asked by someone in the Dallas Office, whose identity I can't recall, (because what this unrecalled person asked me was a rumor and insignificant) if I had heard the rumor that Oswald had come to the Dallas Office where he asked Nan Fenner, the Receptionist, to see Hosty. I recall there being no mention of any note left by Oswald, nor did Hosty, or anyone else in Dallas ever talk to me about the incident, the note or the contents of the note. Mr. Wallach asked if I had reported to anyone in Dallas at the time the above incident and Mr. Wallach was advised I did not report a rumor and that I treated it as a rumor, in that I promptly forgot about it as I was very busy at the time conducting investigations of other matters having to do with the assassination.

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Mr. Wallach asked if Mr. Hotis had informed me of my right to counsel and I stated this had been done. Mr. Wallach then advised me of my right to counsel and my right to refuse to answer any questions. I advised Mr. Wallach I was aware of my rights.

Mr. Wallach advised me that recorded results of this interview would later be available to me, in Washington, D.C. I asked if I would be furnished a copy and if a copy would be furnished the Bureau. I was informed that the Bureau would not be furnished a copy nor would anyone, other than myself, from the Bureau, have access to this report. I was also told that I would be advised by mail when I could have access to the report. Mr. Wallach did not say if I would be furnished a copy. He also said I could request the presence of a Senator during the interview, which request I did not make.

Mr. Wallach then asked about my Bureau career and assignments prior to November 22, 1963. He was advised of my assignments in Phoenix from 1952 to 1954, in Amarillo, Texas, from 1954 to 1956, and in Dallas from 1956 to 1966. Mr. Wallach inquired as to what kind of investigative work I was doing as of November 21, 1963, and I told him that primarily I was assigned to investigations having to do with organized crime, gambling, and criminal intelligence, and occasionally some involved civil rights cases, and some extortion cases. Mr. Wallach asked how long I had been doing such work and who else in the Dallas Office was either working with me or doing similar work. I told him I had been working these type cases since November, 1957, and that I was assisted by SA Ivan D. Lee from about 1960, or so, until the assassination, at which time Lee and I were both assigned to the assassination investigation, primarily, for about a year.

Mr. Wallach then asked me to define a "hip pocket informant" and after I gave him my definition, he asked if I had any in Dallas. I defined a "hip pocket informant" as a source of information whose identity was never made known nor was there ever any record made that such a person was being used as an informant. I told Mr. Wallach I have never employed "hip pocket informants" in Dallas or elsewhere.

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Mr. Wallach asked if I knew of, or had heard of "Carlos" Trafficante of Tampa, and Carlos Marcello of New Orleans, Louisiana. I said that in investigations of organized crime matters, I had become acquainted with these names, but I believed the correct name was Santos Trafficante, to which Mr. Wallach agreed. Mr. Wallach asked if I knew of a man named McWillie (Phonetic) and I said I could not recall ever having heard of this name.

Mr. Wallach asked if I knew of Jack Ruby. I said I had known Ruby as the owner or operator of two Dallas night clubs, that were frequented by pimps, prostitutes and persons involved in criminal activities. I was asked if I had ever talked to Ruby and I said I had on maybe two occasions prior to November 21, 1963, but I could not recall the contents of these conversations, other than it most likely had to do with persons who frequented Ruby's night clubs.

Mr. Wallach asked if I was aware of a connection of Ruby with Trafficante, with Marcello, and with McWillie (Phonetic). I said I was not aware of any connection by Ruby with any of these persons and repeated that I did not recall the name McWillie.

Mr. Wallach asked if I was acquainted with the term "PCI" - "potential criminal informant", if I knew Jack Ruby was a PCI of the Dallas Office, and if I knew the identity of the FBI Agent in Dallas, a "red headed fellow" who had had Ruby assigned to him, and which Agent was later disciplined or transferred. I had just begun to answer Mr. Wallach, when U. S. Senator Richard D. Schweicker, of Pennsylvania, entered the room at 2:33 PM and thereafter took part jointly in the interrogation of me with Mr. Wallach, after introducing himself. Mr. Wallach briefly reviewed with Senator Schweicker what had previously transpired in the interview. Senator Schweicker asked if I knew Ruby was a PCI and if I was not aware of Ruby's connections with organized crime.

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I stated that my investigation of organized crime and criminal intelligence matters in Dallas were primarily concerned with the activities of Joseph Francis Civello and his associates and the activities of a roving band of criminals, not connected with Civello, who used Dallas as a base for their activities. I stated that in these investigations neither I nor SA Lee had become aware of any involvement by Ruby in organized crime matters or any association with the persons who were the subjects of our investigations.

At this point, 2:37 PM, Senator Schweicker asked Mr. Wallach if I had been sworn, and when told that I had not, Senator Schweicker placed me under oath, making reference to all the answers I had given prior to being sworn, as well as those I would give after being sworn.

I pointed out that if Ruby had been involved in organized crime matters, such as association with Trafficante or Marcello, and this had become known to the FBI, I was sure I, as an Agent assigned to organized crime investigations in Dallas where Ruby resided, would have been so advised and that this was not the case.

In answer to the questions about Ruby being a PCI, I stated I had heard something after November 24, 1963, that an Agent in Dallas had at one time opened a PCI case on Ruby, but I did not know any details such as when this occurred, the name of the Agent, and I was not aware that this Agent, whoever he was, had been disciplined because of any dealings with Ruby or for having Ruby as a PCI.

Senator Schweicker then asked if when a person is designated a PCI, the Agent makes such a recommendation to his superior and that Ruby had been made a PCI because of his connections with organized crime. I explained that a person can be designated a PCI by the Agent because of his association with the criminal element, his residence, his employment, or for any of a number of reasons, and that this person may never furnish any pertinent or useful information or be of any value. Senator Schweicker then asked if PCIs were not paid and I said they were only paid when they furnished pertinent or good useful information only on a C.O.D. basis. I was asked if Ruby had ever been paid and I said I had no knowledge of any such payment.

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I was asked if I had any opportunity to see Oswald in the police department at that time or any other subsequent time and I stated to the best of my knowledge Oswald had been taken to the office of Captain "Will" Fritz, that I never did go to Captain Fritz's office at any time on November 22, 23, or 24, 1963, and that I had never personally observed Oswald subsequent to his arrest in the theater in Oak Cliff.

At this point in the interrogation, Mr. Wallach asked me if I knew that disciplinary action by the Bureau had been taken against SA (James) Hosty. I advised them that I was aware of this through my association with Hosty in Dallas. I was then asked if I knew that some Assistant Directors of the FBI had been disciplined because of their handling of certain matters in the assassination investigation. I stated I was not aware of this and had no knowledge of any such disciplinary action.

Mr. Wallach then asked me if I had attended a "going away" party held, not in the Dallas Office, for Hosty by his friends in Dallas. I stated I did not recall any such party and further felt that if there had been such a party I would have been invited and would have attended because Hosty and I were in the same car pool, we attended the same church, we belonged to the same clubs, and I had coached his son on the school football team, and further, that many of Hosty's friends were also my friends.

I was asked if I recalled a conference being held by SAC J. Gordon Shanklin on the early morning of November 23, 1963, in which Agents of the Dallas Office were given instructions on investigation to be conducted that day. I stated that I recalled reporting to work on Saturday, November 23, at about 6:00 AM after having worked to about 3:00 AM that same morning from the Friday before, and I did not recall any such conference held by Mr. Shanklin.

I was asked if there had not been a conference on the morning of November 24, 1963, in which Mr. Shanklin instructed the Dallas Agents not to go near the area at the city jail where Oswald was being removed that day and I

stated I did recall these instructions, and further, I had been instructed, along with SA Ivan D. Lee, to go to KRLD-TV Station to obtain any pertinent photographs that that station might have and further, that while there I had observed, on closed circuit television, the Oswald shooting in the basement of the police department. I was asked if I had any knowledge of a telephone call received by the FBI during the night of November 23-24, 1963, containing a threat against Oswald. I said that to the best of my knowledge, I did recall something to the effect that SA Hilton Newson had been on duty during the early morning hours of November 24 at the Dallas FBI Office and had received such a call. I could not recall at this time who was the source of this information nor did I recall any details as to the contents of the call.

Mr. Wallach then asked if there had not been some occasions when Agents of the Dallas Office had been discussing the assassination and discussing whether or not it was their opinions that it was the act of one man acting alone or was a conspiracy. I stated I was sure that there had been such discussions on an informal basis but that I could not recall any details or anything as to when such discussions were held or who was present and, further, that I was sure that everyone connected with the investigation would have made some personal conclusions.

At this point, Mr. Wallach asked if it was not true that Mr. Shanklin or some other Bureau official had given explicit directions that the investigation was to establish that Oswald acted alone in connection with the assassination. Before I could answer this question, Mr. Wallach stated that such information had been received from other FBI Agents. I stated that this was not so, that I did not believe any other Agents had made such statements, and further, that we had, to the contrary, been given instructions to conduct our investigation in an effort to establish all the facts to identify all persons involved.

At this point, which was about 4:23 PM, Senator Schweicker left the room and did not take any further part in the interrogation.

EXHIBIT 6

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.
v.	)	78-322 & 78-420
	)	
FEDERAL BUREAU OF INVESTIGATION,	)	(Consolidated)
	)	
Defendant.	)	

RULE 60(b) MOTION TO VACATE JUDGMENT, REOPEN CASE AND FOR OTHER PURPOSES

Rule 60(b) relates to reopening litigation because of "Mistakes," including "Newly Discovered Evidence; Fraud, etc." and it states that "(o)n motion and upon terms that are just, the court may relieve a party ... from a final judgment, order or proceeding for ... (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial ... (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party ... or (5) ... is no longer equitable ..."

Weisberg makes this motion under Rule 60(b), based on "newly discovered evidence," because he and the courts were victimized by fraud, misrepresentation and other misconduct, including false swearing that appears not to have been accidental or unintended as stated herein, and because, regardless of what may or may not have been true earlier in this litigation, it is no longer equitable to assess any fees against him under these circumstances. Weisberg believes that the offenses he herein documents with this newly discovered evidence ought invoke

the conscience of the court, which did not make the requisite "Finding of Fact" to begin with, and he prays the court to invoke both its conscience and a judicial inquiry to determine whether or not the Federal Bureau of Investigation Special Agents (SAs) and counsel had knowledge of the misconduct he alleges. Weisberg believes also that this is necessary to the integrity and the constitutional independence of the judiciary.

If the court does not grant this motion to vacate and reopen, Weisberg believes, particularly because the court did not make the requisite "Finding of Fact," that he has a right to a trial on charged offenses, stated with specificity, and he herewith requests such a trial.

BACKGROUND

Plaintiff Weisberg is 72 years old and is in seriously impaired health because of not uncommonly fatal complications following arterial surgery. He is severely limited in what he is able to do, as is detailed in the case record, which also includes his medical history, in particularly great detail with regard to the additional illnesses he suffered during the period in which the defendant was demanding alleged "discovery" from him.

Weisberg has published six books on the assassination of President John F. Kennedy and its official investigations and one book on the assassination of Dr. Martin Luther King, Jr., and its official investigations. In this work Weisberg drew upon earlier experiences as an investigative reporter,

a Senate investigator and an intelligence analyst. His work differs from other works in these fields in that he has not pursued whodunits and instead has made a careful and detailed study of the functioning (and failures) of the basic institutions of our society in those times of great stress and thereafter. Two decades after he published his first book (which also was the first book on the "Warren Commission" appointed by President Johnson) it remains in use as a college text, as his later books also are.

After the enactment of the Freedom of Information Act (FOIA) he made information requests, mostly of the FBI, to obtain undisclosed information. It is not generally known, but the FBI decided not to provide this Presidential Commission with a considerable amount of relevant FBI information. It ordered its SA witnesses not to volunteer any information to theWarren Commission, and its founding director praised SA James P. Hosty, Jr., records relating to whom are at issue in this litigation, after Hosty deceived and misled the Commission and knowingly lied to it. (Hosty was the Dallas office Oswald case agent.) Among other things, Hosty attested to the Commission that the FBI has no reason to believe that Oswald was capable of any violence and had no history of violence when in fact Oswald had, in a letter to Hosty, threatened to blow up the Dallas FBI office and/or the headquarters of the Dallas Police Department. There was an FBI internal investigation of this matter when it was leaked to the Dallas Times-Herald in 1975,

after the retirement of the Dallas Special Agent in Charge (SAC) Gordon Shanklin was secure. Both versions of the bombings Oswald threatened are included in the FBI's investigation of itself. In that investigation Hosty attested to his personal destruction of Oswald's threatening letter. This he stated was on SAC Shanklin's direct order. On the interpretation that it would be "bootstrapping," the Department did not prosecute Shanklin for perjury. This is but one of innumerable illustrations of FBI withholding of enormously significant information from the Warren Commission and thereby of its control of the Commission's investigation, for which the FBI provided most of the investigative and technical services.

Like this, the withheld information Weisberg sought under FOIA is potentially embarrassing to the FBI and from the very first, under a variety of subterfuges, the FBI decided to ignore Weisberg's FOIA requests. This was approved up to and including Director Hoover, as the records Weisberg provided in his FOIA litigation reflect. In 1967 two FBI SAs, Lyndal Shaneyfelt and Marion Williams, urged that Weisberg and his writing be "stopped," their word, and in Shaneyfelt's case the filing of a spurious libel suit against Weisberg, with Shaneyfelt fronting for the FBI, was approved all the way up to and by Director Hoover. Shaneyfelt then chickened out.1/

1/ In C.A. 2301-70 SA Williams swore that if the FBI disclosed copies of the results of nonsecret laboratory ballistic-related testing, the FBI's informer system and the FBI itself would crumble into ruins. The information sought is only that which is normally used publicly in prosecutions and when the FBI stonewalled that litigation for almost a decade, it did not

Thereafter, SA T. N. Goble, who had the internal reputation of being a "liberal Harvard lawyer," in an opinion also approved and acted upon, held that because the FBI does not like Weisberg under FOIA it is not required to respond to his requests. This was FBI policy and almost without exception the FBI ignored all of Weisberg's information requests and without any exception, once he filed suit, stonewalled with a variety of devices and stratagems. In no case did it begin by making and properly attesting to the required searches. In this litigation, in which Weisberg seeks information from the FBI's Dallas and New Orleans offices, it asked for and was granted four years to comply and even then did not provide any first-person attestation to making searches responsive to Weisberg's requests. Instead of providing an attestation relating to any search by the Dallas office, the FBI provided an attestation by FBIHQ SA supervisor John N. Phillips in which he actually attested that no search was made anywhere and instead of a search, particularly in Dallas, to which Weisberg addressed his request, SA Thomas Bresson at FBIHQ decided to limit Weisberg to the companion files of those of FBIHQ that had been disclosed earlier. 2/

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crumble with disclosure. However, in 1974, citing that litigation the Congress amended FOIA's investigatory files exemption to eliminate the FBI's revision of the legislation and its alteration of the meaning of this exemption. This opened to public inspection some of the FBI's and CIA's "dirty works" in which they targeted on and in some instances destroyed Americans who had not engaged in any criminal activity but whose views were not in accord with the party lines of the agencies.

2/ Weisberg attested that Phillips was not competent to provide the FBI's attestations in this litigation because he lacked personal knowledge and because those with personal knowledge

With regard to the New Orleans requests, where again no search to comply with Weisberg's request of it is attested to other than indubitably falsely, SA Clifford Anderson provided handcopied search slips relating to an entirely different request of a year earlier.

The degree to which the FBI has gone not to comply with Weisberg's requests is amply reflected, without any refutation at all, in the case record in this and in other litigation. When the Senate's FOIA subcommittee heard that some 25 of his information requests, going back to 1968, had been entirely ignored and the Department assured that subcommittee that it could not defend the FBI's record and would take care of those requests, it did no such thing and they remain ignored to this day, even after Weisberg filed this list as an additional appeal before he filed and during this litigation. His filing of this list with the FBI remains without response after a decade. These were mostly limited requests, for few records requiring little time for compliance. When they were ignored, Weisberg believed he had no alternative to making inclusive requests and he thereafter made the all-inclusive requests involved in this litigation.

Illustrative of the complete ignoring of Weisberg's requests

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were available to the FBI. This court thereafter continued to accept Phillips' incompetent attestations. However, in Shaw v. FBI No. 84-5084, the appeals court held that because he lacks personal knowledge of the FBI's JFK assassination investigation, Phillips is not competent to attest as he attested in this instant cause.

are two, for Dallas and New Orleans information, that he filed in 1970. (Exhibits 1A and 1B) The proper form has boxes for indicating which of the three possible options the FBI exercised. It ignored all three. These perfectly proper requests were not "granted," not "denied" and not "referred" elsewhere. However, although it languished for more than a half year, Weisberg's covering check was not entirely ignored. After being torn into shreds and then pieced together and taped rather amateurishly, as can be seen from the attached xerox of what remains of both sides (Exhibit 2), this Scotch-taped confetti was actually depsited by the government, accepted throughout the banking system and ultimately was honored by Weisberg's bank and charged to his account!

Early on, when it had reason to expect eternal secrecy to protect its transgressions against American belief, if not also law, the FBI engaged in a campaign of vile defamation of Weisberg. This and the other courts did not have to accept Weisberg's interpretations because he provided copies of the FBI's own records. They include complete fabrications. In no instance has the FBI made any response, issued any denial or explanationand, naturally, there has been no apology. Only widespread misuse.

One such fabrication consisted in converting an annual religious gathering, at a small farm the Weisberg s then owned, after the Jewish high holidays (which are in September and October) into their alleged annual celebration of the Russian

Revolution, which was in November. Weisberg's alleged subversion, if subversion it was, actually was that of a rabbi. It consisted of children seeing eggs hatch, playing with just-hatched chicks and waterfowl, gathering eggs just laid and playing with and riding on tame farm animals. This was so truly great a subversion that the University of Maryland adopted it and carried on the project for children as "McDonald's Farm." But the FBI so cherished this fabrication that it gave it wide distribution. While the full distribution has not been disclosed to Weisberg, records he has filed with the courts reflect distribution to the White House, Attorneys General and their closest assistants and even to those defending against Weisberg's FOIA suits.

Another illustration of the FBI's contrived defamations of Weisberg resulted from his informing the Department that FBI records it provided to the Alabama Highway Patrol were being given by it to a notorious racist, J. B. Stoner, who was Weisberg's source. The FBI contorted Weisberg's accuratre information, provided in the FBI's interest, into a conspiracy to defame the FBI by Weisberg and this virulent anti-Semite. (Stoner since has been convicted of bombing a black church.)

So completely did the FBI contort everything in order to better fabricate a defamation, it even stated that Weisberg sought the interview when in fact the FBI knew he had appeared at the Department's request and about an entirely different and unrelated matter of interest to the Department.

When those in the FBI who had no knowledge of the subject matter of the records disclosed these and other such defamations

and they included reference to withheld underlying records, the underlying records remain withheld. Thus the complete falsehood that Weisberg had personal relationships with a Soviet national in the Soviet embassy is disclosed but the underlying records cited, which cannot possibly justify this falsehood and cannot have any basis in fact at all, remain withheld. The same is true with regard to the FBI's disclosed falsehood which states that Weisberg had visitors from the Soviet embassy, as he never did.

Also early on and consistent with its efforts to prejudice everyone possible with the untrue belief that Weisberg was a Commiunist, toward the end of 1966, the FBI construed its law enforcement and national security responsibilities to require that it intrude into Weisberg's rights and possibilities as a writer in efforts to ruin him and his first two books, according to its own records Weisberg provided, from New York to San Francisco. In New York it provided information to four private lawyers for them to use in an effort to ruin Weisberg and his first book on a TV talk show. In San Francisco one of its symbol informers tried to red-bait Weisberg with garbled and misrepresented matters of before the FBI's informer was old enough to be aware of them. In both instances the FBI's supposed law enforcement and/or national security efforts backfired and in both instances it sold out all copies of his books that were available. In New York, in fact, its self-defeating propaganda efforts required an additional printing of his first book to meet the demand created in New York alone.

After FOIA's investigatory files exemption was amended in 1974, a crew of six Civil Division lawyers was detailed as a "get Weisberg" crew, in addition to FBI personnel so assigned. After all six appeared in one case and failed, the stonewalling detailed and unrefuted in the case record in this litigation was opted instead. Thus the FBI consumed the first four years of this litigation in processing records of its choice without making the initial searches to comply with Weisberg's requests.

One means of stonewalling was the claimed need for discovery prior to any competent attestation to search by those of personal knowledge. In no instance did the FBI present any evidence to counter what Weisberg presented to this court relating to this alleged discovery. Instead, it counsel merely stated what was not true and what, under oath and himself subject to the penalties of perjury, Weisberg attested was not true. In presenting fabrications to the courts, counsel was no less imaginative and innovative than the FBI. For example, in the FBI's appeals brief (at page 44), in seeking to attribute serious misconduct to both Weisberg and his lawyer and to invoke additional sanctions against Weisberg's lawyer, it told the appeals court that "(t)he district court had closely observed counsel's relations with plaintiff in this litigation for more than five years."

The actuality is that this court did not - ev er - see Weisberg with his counsel in this litigation because the one time he was present, in 1979, having agreed to give the FBI time to process records, he sat with a friend in the audience, not with his lawyer. The FBI then took the first four years

of this litigation to process those records and nothing transpired before this court. From the time of the first status call, as the case record reflects, it was physically impossible for Weisberg to be present; and as the transcripts reflect, he was never present - not once. Yet to this day no one in the FBI or of its counsel has seen fit to withdraw or to modify in any way this contrived defamation of both Weisberg and his counsel, gross and deliberate a malevent untruth as it is.

The defendant's obfuscations and misrepresentations were so successful that by the time this case was before the appeals court it believed - and actually stated (decision, page 3) - that this lawsuit seeks records relating to the King assassination and its investigation, as it does not.

To obfuscate the fact that the FBI did not and never intended to comply with Weisberg's New Orleans request, its appeals brief, in pretended direct quotation of his requests (page 2) eliminates entirely the language of the request that relates uniquely to the New Orleans records. This misrepresentation, which cannot be accidental, also has never been withdrawn, never been apologized for. (It also pretends that the Dallas request is limited to its introductory sentence.)

Essentially, the FBI gave two reasons for its discovery demand, Weisberg's unique subject-matter knowledge and expertise and the claim that, if and when Weisberg provided it, the FBI would be able to prove that it had complied with his requests - even though, as it knew and as the case record reflects, it had not even made the required initial searches but had

without sanction substituted for them and had even attested to that. This attestation was provided by SA John N. Phillips, case supervisor. Throughout the last part of this litigation, Weisberg provided a series of affidavits, making himself subject to the penalties of perjury if he himself lied about what is material, in which he detailed the varying degrees of untruthfulness he attributed to Phillips and others in the FBI. When this court ignored Weisberg's attestations, he requested that it determine whether or not it had been addressed with less than truth by the FBI. This court declined. And when Weisberg, again making himself subject to the penalties of perjury, presented his several reasons for not providing this supposed "discovery," the FBI made no effort to provide counter-affidavits and this court ignored Weisberg's attestations.

As Weisberg then noted, what the FBI demanded under the guise of discovery greatly exceeded its claimed need. It did not demand merely proof of the existence of withheld records or of information indicating their existence. It demanded "each and every" reason, "each and every" bit of information and "each and every" related document. This meant that if in Weisberg's some sixty file cabinets of materials he had 100 different records relating to the existence of what the FBI withheld while only a single document would establish the existence of the information, he was actually required by the demand and the court's Order to search out, copy and provide all 100 relevant documents. In addition, the demand and the Order also required Weisberg to provide all the other related

information he had. With regard to one such Item, to which Weisberg returns below, the recordings of the assassination period broadcasts of the Dallas Police Department, in order to be in compliance with both the demand and the Order, in addition to the numerous FBI pages Weisberg had already provided - and the FBI thereafter ignored - he would have been required to search all that he recalled throughout the 10,000,000 published words of the Warren Commission, throughout its 900-page Report and appended 26 volumes of evidence, plus what he had earlier recalled from the Commission's 300 cubic feet of records deposited in the National Archives. It obviously was and is impossible to attest truthfully to having provided what was demanded and ordered, "each and every" fact and document Weisberg has or of which he knows. And when he noted this great excessiveness, the demand was not altered and the Order was not modified in any way. Because of the possibility that if he forgot anything he would have been subject to a charge of perjury is one of the reasons Weisberg declined to comply with the Order. Moreover, it is obvious that "each and every" fact, reason and document is not required in any legitimate discovery demand. A single fact, reason or document is all that is required to establish the existence of the withheld information. Conversely, if a single record or fact established the existence of what is relevant and withheld, there is no possible way in which "discovery" would have enabled the defendant to establish compliance. Only the opposite is possible.

Weisberg also attested, from his knowledge of the FBI's

records and record-keeping systems, that the FBI required no discovery from him. As with all else to whch Weisberg attested, the FBI did not provide any evidence to refute this. Moreover, as Weisberg also attested and established by attaching copies of them, even the irrelevant New Orleans search slips itemized relevant records that were and still, to this very day, remain withheld. (Thus the FBI's need to misrepresent to the appeals court what was actually requested of the New Orleans office.

Weisberg attested that and explained how what was demanded and ordered exceeded his physical capabilities, and without any contrary evidence being offered by the FBI it is unrefuted that his physical condition alone made it impossible to comply with the discovery demanded and ordered. He argued with regard to this and the other reasons he gave that burdensomeness is a proper and accepted reason for opposing even legitimate discovery demands.

To this, but without taint of evidence, decency, honesty or fact, the FBI's counsel claimed that because Weisberg had been able to provide affidavits during the period of time in question - some six months - he would have been able, in the same time, to comply with the discovery demand and Order. In this misrepresentation the FBI's counsel omitted what Weisberg attested to, that he was able to prepare his affidavits without the searches and copying required by the demand and Order, which relate to records in his basement when he is limited in the use of stairs and can stand only briefly before file

cabinets because of his circulatory problems. He also showed that the time required of him for the preparation of those affidavits came to only a few minutes daily over the period of time in question.

And when the FBI's counsel, without regard to Weisberg's age and ill health, with which the FBI has been familiar for more than a decade, made the nastiest kind of slurring and defamatory remarks to pretend that Weisberg was not honest in his representations regarding the poor state of his health, Weisberg provided an additional affidavit to which he attached copies of his hospital bills beginning with the first of his three serious surgeries (the second two emergency operations) and for the period of the discovery demands, copies of the bills of his family doctor. These itemized an additional long series of debilitating, painful and not infrequently dangerous illnesses, ranging from repeated pneumonia and pleurisy to the internal hemorrhaging they caused. (Weisberg has for a decade lived on a high level of anticoagulant, for which it is required that his blood be tested at least twice weekly to be certain that he does not bleed to death. A simple fall or bruise or cut that would be insignificant to another can be fatal to him, as he, without refutation, attested.)

In its Memorandum and Order this court cited what the appeals court said, that Weisberg had refused to provide the information demanded. While the appeals court did so state, it is not correct. Weisberg's position throughout is and has

been what he attested to, without refutation, that he had already provided all the information and documentation of which he is aware, to so great an extent that his copies as he has them filed take up at least two file drawers.

Weisberg had to estimate because he has two full file cabinets, eight full file drawers, of such information and documentation as he had provided it to the defendant. This began with the request of another court, in Weisberg's King assassination litigation, and was continued, with the same appeals officer, at his request, in this litigation. Because FBIHQ records also are involved in the fully stuffed JFK assassination file cabinet of what Weisberg provided, while it is probable that, because most relevant Dallas and New Orleans records were withheld as "previously processed" in the form of the FBIHQ records, Weisberg estimated conservatively that only half are involved in this litigation.

Without refutation, without even the customary slurs of the FBI's counsel, Weisberg attested that making additional xeroxes of what he had already provided, aside from being unnecessary, also is beyond his physical and financial capability. (Since the time of that attestation, his Social Security check, his only regular income, has grown to the munificent sum of $356.)

In addition, and it was not possible for Weisberg to estimate the considerable extent of this, throughout his affidavits in this litigation, Weisberg provided the kind of information included in the defendant's "discovery" subterfuge - only to have it, as without refutation he attested, consistent with

the FBI's long record in this and his other litigation, ignored. Again, the Dallas police broadcasts of the assassination period are illustrative. Weisberg informed the court and the FBI and its counsel where such materials had been stored in the Dallas office - not in the file cabinets but in a special storage chest. His source was records provided in this litigation and thus no discovery from him was required for the FBI to know. In response SA Phillips swore that the FBI never had any such recordings and that obtaining the recordings was the self-starting, personal endeavor of an FBI employee. When Weisberg then provided its own records reflecting that the FBI had transcribed those recordings of the police broadcasts and provided the transcripts to the Warren Commission, which published them, without regard to the obvious inconsistency, Phillips then swore that the FBI had given the recordings to the Commission. However, those recordings are not in the Commission's records and, although everything forwarded from the field offices was covered with a written record and everything delivered to the Commission was hand-delivered and additionally covered by a separate FBI record, the FBI could not supply any record even suggesting that Dallas had forwarded the recordings to FBIHQ or that FBIHQ had given them to the Commission and, as of the time this lawsuit was filed, they were precisely where, without refutation, Weisberg had attested they were in the Dallas office. Then, when the House of Representatives created a committee to investigate the assassination, and the

FBI did not have them in its main assassination file, it retraced what it had done and the Dallas office filed lengthy reports on this, which Weisberg attached to his affidavits. Once he did that, the FBI withheld the remaining relevant records. Nonetheless, Weisberg had informed it of the need for them created by the request of the House and again, consistent with its long record, the FBI failed to look there. This is carried further under "new evidence." It is obvious that there is no earthly effort Weisberg could have made to inform the FBI fully and accurately, if as it did not, it had required any assistance from him, and he did this, under oath and in this litigation, complete with copies of the FBI's own indices and records.

All of this was and to this day remains ignored. And this is but one of countless such illustrations, where he even provided the correct field office file numbers only to be ignored and, along with the courts, only to be imposed upon by the spurious claimed need for "discovery" that in turn was only an additional and unnecessary demand for what he had already provided.

So, regardless of what both the defendant and this court ignored that is without refutation in the case record and, regardless of what the appeals court stated as the end result of persisting misrepresentations by the defendant, the plain and simple truth is that Weisberg had already provided - <u>before</u> discovery was demanded - <u>all that was demanded under discovery.</u>

Despite the total absence of refutation of the numerous reasons Weisberg gave for not complying with the Order and his likewise unrefuted attestation to having provided all that was demanded in any event, and without any "Finding of Fact" by this court, Weisberg was held to be subject to sanctions.

THE NEW EVIDENCE

By "new evidence" Weisberg means relevant and withheld FBI information that the FBI knew it had and withheld from him in this litigation despite its obvious materiality and importance. As will be seen, its existence was known to John Phillips, the FBI's affiant in this litigation, when he executed his affirmations subject to the penalties of perjury. This new evidence now in Weisberg's possession consists of copies and references to of field office records which establish beyond any question the existence of other and relevant records sworn by Phillips not to exist. This is its history.

The House of Representatives established a Select Committee on Assassinations (HSCA). In order to service this committee the FBI collected for its use, in the Records Management Division at FBIHQ, which also handles FOIA requests and where Phillips is a supervisor, FBI records relating to the assassination of President Kennedy. Independently, both Weisberg and a friend, Mark Allen, filed FOIA requests for this information, Allen filed suit (C.A. 81-1206) when it was not provided, and when Allen provided Weisberg with copies of information he believed is of interest to Weisberg, beginning after this case went

up on appeal, Weisberg withdrew his request for that information. Weisberg has a copy of Phillips' January 12, 1982, affidavit identifying himself as supervisor in the Allen case. Weisberg also understands that at least two of the FBI SAs who assisted Phillips in this litigation assisted him in the Allen case. It thus appears that, in addition to others in his Records Management Division and elsewhere in the FBI, including the Dallas and New Orleans field offices, at the very least Phillips and these two assistants have knowledge of what is relevant in Weisberg's litigation and of what they have disclosed in the Allen case. They thus knew of the existence, materiality and importance of this new evidence at the time of Phillips' attestations relating to its alleged nonexistence and with regard to the alleged need of discovery from Weisberg and the alleged purposes of that discovery.

Instead of making detailed response to Weisberg's thoroughly documented attestations to Phillips' untruthfulness, Phillips in the end contented himself with a sworn blanket denial of any untruthfulness.

Whether or not Phillips knew, as Weisberg had written, that Allen was providing copies of what Phillips and his assistants disclosed to Allen and that Weisberg therefore had withdrawn his request, in his above-cited affidavit in the Allen case he attests (in Paragraph 9) to knowing that Weisberg "made a similar request" on December 4, 1979. At the least, therefore, Weisberg believes that Phillips and/or his assistants ought at least have suspected that he was obtaining copies of some

of what they were disclosing to Allen, samples of which are attached hereto. Whether or not they had any reason to believe that Weisberg had or would obtain knowledge or copies of what they were disclosing to Allen, it is apparent that they had personal knowledge of the existence and importance and materiality of this new evidence at the time of Phillips' attestations in this instant cause and ever since then, including at the time this litigation was before the appeals court, which is when Weisberg began to receive copies from Allen.

All of the records of which this evidence is part were physically in the possession of the FBI's responding component in this litigation throughout all the time it has been before the courts.

And what was disclosed to Allen, with Phillips as the FBI's supervisor, includes copies of withheld and relevant field office records as well as innumerable references to what is relevant and is withheld in this litigation. What the FBI disclosed to Allen leaves it without question that Phillips' attestations to the need and purposes of the alleged discovery and all other filings related thereon are and were known to be false and fraudulent.

While many more examples exist, Weisberg here limits himself to a few that are illustrative to establish the fact that the FBI's claimed need of discovery was fraudulent and that Phillips' related attestations were more than merely untruthful - were made when he was in a supervisory role in the very case

in which this new evidence was disclosed.

Recordings of Assassination Broadcasts on Dallas Police Radio

In addition, and this also bears on what the FBI's intent really is in all of Weisberg's litigation, he provides the proof that the Dallas police broadcast recordings, along with relevant records, were located long ago and exactly where Weisberg had indicated under oath, and to this very day remain withheld. No claim to exemption is made and indeed, none can be made when the FBI has already disclosed its source and a supposedly verbatim transcript which it authorized the Commission to publish and it did publish. (Part of the FBI's problem is its omissions in its allegedly verbatim transcription, of which Weisberg is aware from a tape recording of a segment he obtained after the Dallas police let others have it. Another part of the FBI's problem relates to the special panel of experts to study these recordings, convoked by the attorney general during the course of this litigation to study what was provided by the FBI.)

Unless the FBI departed from its standard procedure, Phillips' component has copies of all the related Dallas and other records and, given Phillips' supervisory role, it is reasonable to believe that he had knowledge of the foregoing.

The Department's letter (Exhibit 3) refers only to Weisberg's appeals of four and five years ago which also included this identical information. It makes no reference to this litigation. Here again, consistent with a long record, the appeals had

not been properly processed. There is no doubt of relevance, as Weisberg's response (Exhibit 4) makes clear. His response also illustrates the kind of detailed information he provided only to have it ignored. In this instance, for a half-year in which he has heard nothing further and received nothing at all. Copies of the recording(s) and all located records remain withheld to this very day, and this when no search need be made and no claim to any exemption can be justified or has been made. Although last December those records were being reviewed and a release determination "will be made as soon as possible," there has been no further word.

This new evidence, too, gives the lie to each and every one of the untruthful attestations made with regard to the material in question and based on which both courts ruled. It has been known to the defendant for not less than a half-year and none of the untruthful attestations has been withdrawn or modified in any way.

This new evidence also establishes that no discovery from Weisberg was necessary for the withheld information to be located and that no discovery from him would have enabled the defendant to establish compliance as Phillips attested when it knew it had not complied.

Obviously, the FBI knew that it had these recordings and related records - and had not provided them to Weisberg - when its attestations said the exact opposite, such as that it had <u>never</u> had them.

It also confirms what Weisberg attested with regard to the claimed need for discovery, that the FBI has a long record of ignoring all the information he provided, and he has provided an enormous amount of information and documentation.

Ticklers

When no ticklers were provided from the Dallas and New Orleans records, Weisberg appealed their withholding and raised the matter in this litigation. Weisberg attested that ticklers in cases like the assassination investigations are preserved as long as the case is "open," as the JFK assassination is; that their preservation is required for the efficient operation of the FBI, particularly when large volumes of records are involved; that FBI ticklers more than a decade old had been disclosed to him; and that, because of its great value, he had personal knowledge that when a person who had a tickler he no longer needed, it was transferred, intact, to the FBI's central records. Phillips first engaged in a series of semantical exercises based on knowingly incorrect definitions of ticklers and their form and purposes, was corrected by Weisberg, and he ultimately swore, after qualifying himself. that all FBI ticklers are "routinely" destroyed after a few days. There thus was direct conflict with regard to what is material between Phillips and Weisberg, each having sworn to personal knowledge.

Weisberg has only a small percentage of what the FBI and its supervisor Phillips have to this moment disclosed to Allen, but what has been provided to Weisberg fills two file

drawers and consists entirely of copies of extant FBI ticklers. The FBI's file folders are labeled as ticklers, the records when copied were designated to the appropriate parts of the ticklers, which are elaborate, and without reasonable question all of this was known to Phillips and his assistants when and after he swore that all ticklers are "routinely" destroyed by the FBI. These extant ticklers are more than 20 years old.

There is no discovery from Weisberg which would have enabled the FBI to prove it had complied or that it had made a proper search when it knew it had not and when Phillips knew that, instead of having such a search made in Dallas and New Orleans, he, in Washington, swore to the nonexistence of any JFK assassination ticklers. No discovery from Weisberg was necessary for the FBI to know that it has JFK assassination ticklers, but the fact of their existence and even the names of the agents responsible for their compilation were provided by Weisberg before the FBI and Phillips made false representations with regard to the FBI's alleged need for "discovery."

Here again, long before the FBI's demand for discovery, Weisberg had provided what it requested under "discovery" and it had, consistent with its long record, ignored what Weisberg provided

"Sex Dossiers" on "Critics" of the Assassination Investigations

The Associate Attorney General directed the FBI to process for disclosure its records on the "critics" of the official investigations. Phillips attested that ther FBI had no such

records. Weisberg attested that it had disclosed to him, in this litigation and elsewhere, the existence of field office records on the critics and that he provided copies of some such records, attached to his affidavits and appeals, along with relevant Dallas and New Orleans file numbers. He also attested to the use of seemingly inappropriate file classifications for the hiding of relevant and potentially embarrassing records of this and similar character and provided samples from what the FBI had disclosed.

One of the FBI's ticklers disclosed to Allen, in the form of an outline of what could embarrass the FBI, leaves it beyond question that the FBI and Phillips and his assistants in particular knew it had records on the critics. One page of this tickler, attached as Exhibit 5, under "3. Bureau Relations with Warren Commission," at "C. Related Bureau Actions and Activities," discloses that the FBI has withheld records on them from which it prepared "(7) sex dossiers on critics of probe."

(There is much else in this particular tickler that indicates the existence of pertinent and withheld records and that pinpoints areas of great embarrassment to the FBI in them. This, in turn, suggests motive in the FBI's dishonesties in this litigation. One illustration is the reference to Hosty's destruction of Oswald's threatening letter to him. This tickler states that it was "handled by Bureau Nov 24" or the very day Oswald himself was killed, "and effects in subsequent days" (sic).

This records the fact that at the very least FBIHQ was directly involved, did the "handling," and then undertook to keep the sordid mess secret, from everyone, from the President and his Commission and from the nation. Confirming what Weisberg had attested, that the FBI was hiding the fact that it never investigated the crime itself, and still another area of embarrassment to the FBI, is "Rosen [Assistant Director Alex Rosen, in charge of investigative division] characterization of FBI 'standing around with pockets open awaiting for evidence to drop in.'" Another area of embarrassment is disclosure of the nature of the relationship of Director Hoover and the FBI and the Warren Commission. This tickler discloses that Hoover opposed its formation and then had an "adversary relationship" with it. He actually intruded into its staffing by "blocking Warren's choice for general counsel," a man Hoover disliked, the late, respected Warren Olney, of the Department's Criminal Division. Not content with this the FBI then prepared "dossiers on staff and members," an obvious means of exerting pressure on the members and their staff; and after the Report was out, the FBI prepared additional dossiers on the Commission's staff. That the FBI spent tax money and staff and other resources to prepare itself to blackmail and that it prepared dossiers on such respected and eminent Americans as the chief justice; the former Director of Central Intelligence; Senator Richard B. Russell, who was in charge of Senatorial oversight and was the respected leader of Southern Democrats; Republican Senator

John Sherman Cooper; the respected banker, John J. McCloy, who had a long record of public service; the Congressmen members, Hale Boggs, another leader of Southern Democrats, and Gerald Ford, then Minority leader and later President, is truly shocking and scandalous, highly improper if not also illegal expenditure of public funds, and there is little doubt that if this had been disclosed during the Commission's life or during the controversy following publication of its Report, it would have shaken the nation. The dossiers the FBI prepared on the staff gives it dossiers on file on a number of prominent persons, a large number of prestigious lawyers, at least one judge, the head of a later Presidential Commission and Senator Arlen Specter of Pennsylvania.)

It is standard FBI practice to funnel information to and through its "office of origin," in this case Dallas, with New Orleans, because of Oswald's activity there and because of the investigation of District Attorney Jim Garrison, virtually a second office of origin. Exhibit 6, which Weisberg provided on appeal and attached to an affidavit, illustrates this was done with the "critics." The FBI had its symbol informers covering the meetings of "critics," not fewer than seven of whom are identified by name and file number, with copies sent to both Dallas and New Orleans. The FBI files the "critics" as subversives and its informer was ostensibly assigned to "security" from h is FBI identification number. (Here again, the FBI ignored this and other similar documentation Weisberg provided and then demanded it again on discovery, after ignoring

it when he provided it voluntarily.)

That the FBI kept records relating to the "critics" and their books is disclosed in a record processed for Allen (Exhibit 7) which is captioned "Biased Books Re Assassination of President Kennedy." These ticklers have individual folders for individual "critics" and for their books, as is illustrated by Exhibit 8. (The author is Mark Lane, pertaining to whom Weisberg had provided the FBI field offices' file numbers, "subversive," of course. The FBI did not need "discovery" from Weisberg to learn its own file numbers, which are posted on its indices, but Weisberg did provide them and the FBI ignored the information he provided. It thus did not need this information under "discovery" and there is nothing else that the FBI did need under this so-called "discovery.")

Exhibit 6 also discloses that even the Los Angeles FBI field office knew that New Orleans had a 100 or "subversive" file on Jim Garrison and thus not only was no discovery from Weisberg needed for the FBI to be aware of this but Weisberg had provided it and it was ignored, with the file itself withheld as nonexistent rather than as exempt.

Obviously, there is no possibility that any so-called "discovery" from Weisberg would have enabled the FBI to prove that it had complied when it had not and knew it had not and had not even searched and knew it had not and, even more, when Weisberg had already provided it with its own file numbers on these "critics."

Bearing further on the deliberateness of the FBI's false

swearing to the court, the fraud Weisberg believes was perpetrated and on the FBI's means of hiding information by tricky filing, is Exhibit 9. This FBI record on another book on the assassination was designated by the Dallas SAC for an 80 or "Laboratory Research Matters" file when there is nothing relating to the Laboratory or to research matters in the record captioned "Jim Bishop, Author."

(New Orleans also uses the 80 classification for delicate matters entirely unrelated to the Laboratory or its "research matters" but is related to Garrison and his staff, among other things. An example, provided by Weisberg as attachments to an affidavit, is filing information relating to a member of Garrison's staff, who provided confidential Garrison information to the New Orleans FBI, in an 80 file. Even when the search slips recorded the existence of relevant 80 files, the FBI withheld them as irrelevant despite the copies of its own records Weisberg provided.)

With regard to all these matters related to "critics" and their books, Weisberg had already provided all the information he had prior to the demand for discovery. The new evidence makes it apparent that the FBI's attestations to the nonexistence of records on the "critics" were, when made, known not to be truthful and they also indicate fraud. This is still another illustration of the known impossibility of the FBI's sworn-to representations with regard to its alleged need for "discovery" from Weisberg. The FBI - and Phillips and his assistants in particular - knew that no discovery from Weisberg would enable it to prove that it had complied with his requests (and the

Associate Attorney General's direct ive) with regard to "critics." The FBI's possession of and under Phillips its processing of this new evidence makes it apparent that it - and he in particular -needed no help in the form of "discovery" from Weisberg in order to be able to locate and process its information relating to "critics." Likewise, it appears to be obvious that at the very time Phillips swore subject to the penalties of perjury that the "discovery" demanded of Weisberg would have enabled the FBI to prove that it had complied with his request, he had solid documentation in his division and under his control which left it without question that his attestation was false. And at no time subsequent to the disclosure to Allen of these and the other relevant records has Phillips or anyone else in the FBI or its counsel withdrawn or corrected this false swearing and to this very day the FBI has not provided the relevant records in this litigation. Weisberg attributes additional significance to these failures because he did inform the defendant that he did obtain some copies from Allen and he sent explained copies to the FBI's counsel. Knowing these things, the FBI nonetheless persists in its fraud and persists in its efforts to obtain money from Weisberg as part of its fraud upon him and upon the courts. This, Weisberg reemphasizes, <u>after</u> the FBI was <u>ordered</u> by the Associate Attorney General to process all such records for disclosure to him.

Another tickler or new evidence record relating to the FBI's knowledge of its records relating to the "critics" and

their books is Exhibit 10. This is but one of a series of related tickler records on this subject disclosed to Allen having to do with President Johnson's desire to have the FBI Director write a book responding to the "critics." In order to do this it is obvious that the FBI had to have and know it had records relating to the "critics" and their books. With regard to this, it again is obvious that no discovery from Weisberg could possibly have enabled the FBI to establish that it had complied when it knew it had not and that no discovery from Weisberg was necessary for the FBI to retrieve its own records that, still again, were in Phillips' division and under his control.

(The other related records disclosed to Allen reflect the recorded detail and ready retrievability of the FBI's records. With the collaboration of the President's unwilling emissary, Supreme Court Justice Abe Fortas, SA Wick, of the so-called "Crime Records" Division, concocted a substitute for the proposed book by the unwilling Director. It was to have a sycophantic reporter sign a letter to the FBI requesting the kind of information the President wanted to receive extensive attention. When Wick left the FBI for the Washington Star with the approved letter for City Editor Sid Epstein to sign, when he signed it, when Wick left the Star for the White House and when he got there is all dutifully recorded.)

Exhibit 11, from the tickler, records the fact that the FBI was still engaged in preparing assassination-related books

in 1970. "TNG" is SA Goble referred to earlier and he reports that "I am assigned to the book writing detail."

Withheld Field Office Marguerite Oswald File

As Weisberg attested, it is his experience that when the FBI cannot entirely ignore the information he provides it limits itself to the records he reveals knowing exist. Tickler records relating to the mother of the accused assassin, the late Mrs. Marguerite Oswald, confirm this as the FBI's practice in this litigation. After full compliance had been claimed, Weisberg identified an additional Dallas file on Mrs. Oswald. Phillips then attested that the FBI had to withhold the file number and caption in the interest of "national security." Weisberg then provided a disclosed copy with no redactions and with none justified. What Weisberg did not know and what these field offices and PHillips and his assistants did know is disclosed in this new evidence (Exhibit 12), that both offices were directed to establish still another file on her and, as the other records from this tickler disclosed to Allen reflect, both field offices did.

Still again, this new evidence establishes that no discovery could have enabled the FBI to prove that it had complied with Weisberg's request and no discovery from Weisberg was needed by the FBI for it to locate and process these relevant and knowingly withheld files.

Unsearched New Orleans Records Identified in Ticklers Disclosed to Allen

Part of Weisberg's New Orleans request, omitted in what

the FBI represented as full and verbatim quotation of it to the appeals court, includes "all records on or pertaining to Clay Shaw, David Ferrie and any other persons or organizations who figured in District Attorney Jim Garrison's investigation into President Kennedy's assassination." The existence of a number of Clay Shaw ticklers - New Orleans information - is disclosed in the ticklers Allen received from the FBI. In one tickler alone there were two different folders identified as on the jurors in the Shaw trial. A copy of one is attached as Exhibit 13. These records also indicate that the FBI's Garrison Watch was located in Room 818 of the building at Ninth and D Streets, NW, to which copies of records were directed.

Each of a series of "deleted page" sheets in the ticklers disclosed to Allen is identified, with appended numbers, as on "Garrison Witnesses." (Sample attached as Exhibit 14) One particular copy of a list of persons "who figured in" Garrison's investigation is selected because it does not disclose the name of a member of President Johnson's personal staff who, it was suspected, might have had a kind of association with them. (Exhibit 15) Exhibits 14 and 15 relate to New Orleans information. Still again, no discovery from Weisberg could have enabled the FBI to establish that it had complied with this part of Weisberg's New Orleans request and no discovery from him was needed for it to be aable to search its own records.

This sampling of the "new evidence" in the form of FBI ticklers - which the FBI's affiant in this litigation swore under

the penalties of perjury could not and did not exist while it was disclosed to another requester in the lawsuit in which he as the FBI's supervisor provided its affidavit - establish, Weisberg believes, redundantly and overwhelmingly the deliberate misrepresentation, nature and extent of the fraud perpetrated upon him and the courts and the knowingness and deliberateness of the false swearing by which the FBI prevailed before both courts.

Each and every one of the foregoing illustrations of new evidence establishes, Weisberg believes, the deliberate dishonesty of what the FBI and its counsel have done to him in this litigation also establishes the inequity of the situation in which he finds himself.

"'Equitable' and 'inequitable' signify just and unjust." (27 Am Jur 2d, p.517) From the outset of this litigation, what has happened to Weisberg is, from what this new evidence discloses and means, and was intended to be inequitable - unjust. Weisberg believes that this court has both the power and the obligation to rectify this manifest injustice.

CONCLUSION

Weisberg believes that under Rule 60(b) he is entitled to relief from the abuses documented herein and to the protection of the courts from such abuses. He believes that this court should now vacate its judgment against him and reopen the case so that he may obtain justice and relief; that there should be a judicial inquiry into the official fraud and misrepresentation

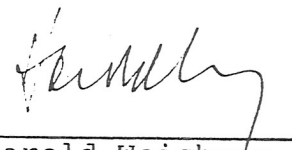
documented herein; that such an inquiry is essential to preserve the integrity and the Constitutional independence of the courts; and that there has been perjury, if not also its subornation, before this court. Weisberg and Phillips both swore to what is material, they swore in contradiction to each other, and Weisberg believes this new evidence establishes that it is Phillips who swore falsely. If Phillips swore falsely and persisted in this, then Weisberg believes he should be charged with the offense and tried. More than the average person an FBI special agent ought be aware of the importance of swearing only truthfully to a court. He ought know a felony when he sees one - and when he commits one. The government's lawyers have no less responsibilities as officers of the court than other lawyers and in this litigation they were not only untruthful, they persist in their untruthfulness after it was with pointedness called to their attention. In violation of the relatively recent notification of the then attorney general, to mark "law day," government lawyers were put on notice that they were to file only what they had reason to believe was true and not what they had any reason to believe might not be true. In this litigation the government's lawyers filed what they had ample and unrefuted reason to believe was not true. This, Weisberg believes, ought not be acceptable to any court and certainly ought not be the basis of sanctions against a private-citizen plaintiff in an FOIA case.

In addition, as a matter of equity, Weisberg believes

he is entitled to the relief he seeks because what the FBI and its counsel have done to him and to the courts is so manifestly unjust. No system of justice can survive such official transgressions as are established by this new evidence and none can survive in any degree if the consciences of the courts do not cry out, as Peter so long ago said the very stones would.

If this new evidence and what Weisberg believes is its clear meaning does not stir the conscience of this court, then Weisberg believes that, particularly with the failure of this court to make the requisite "Findings of Fact," he has a Constitutional right to a trial for any offenses attributed to him by the government, stated with specificity so that he may defend himself, and he herewith requests such a trial.

Respectfully submitted,



Harold Weisberg, pro se
7627 Old Receiver Road
Frederick MD 21701

July 10, 1985

C.A. 78-322 & 78-420
Consolidated

Exhibit 1A

Form DJ-118
(Ed. 7-4-67)

U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20530

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

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

NAME OF REQUESTER	ADDRESS (street, city, state and zip code)
Harold Weisberg	Rt 8, Frederick, Md. 21701
DATE 12/2/70	

DO YOU WISH TO RECEIVE COPIES? ☒ YES ☐ NO IF YES, SO INDICATE (no more than 10 copies of any document will be furnished).	NUMBER OF COPIES REQUESTED 1 each	OFFICE AND CITY WHERE RECORD IS LOCATED (if known) Washington

DESCRIPTION OF RECORD REQUESTED (Include any information which may be helpful in locating record)

All reports on, of or about and interviews with James Powell, Army Intelligence, who took a picture or pictures in Dealey Plaza at the time of the assassination of President Kennedy, other than Warren Commission Files CD206, pp. 19 and 20, and an 8x10 black-and-white print of the film referred to therein. I would also like to have access to any other such pictures Letter attached with further details.

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

FILL IN IF IN PENDING → LITIGATION	COURT (check one) ☐ FEDERAL ☐ STATE	DISTRICT	NAME OF CASE	DOCKET NUMBER

Harold Weisberg
SIGNATURE

FOR USE BY DEPARTMENT OF JUSTICE ONLY

THIS REQUEST IS:

☐ GRANTED

☐ DENIED:

☐ REFERRED

A MINIMUM FEE OF $3.00 MUST ACCOMPANY THIS REQUEST. OTHER CHARGES ARE AS FOLLOWS. (do not write in this box)

FOR SECOND AND EACH ADDITIONAL ONE QUARTER HOUR SPENT IN SEARCHING FOR OR IDENTIFYING REQUESTED RECORD $ 1.00 _____

FOR EACH ONE QUARTER HOUR SPENT IN MONITORING REQUESTER'S EXAMINATION OF MATERIAL $ 1.00 _____

COPIES OF DOCUMENTS:
50¢ FIRST PAGE, 25¢ EACH ADDITIONAL PAGE _____

FOR CERTIFICATION OF TRUE COPY $ 1.00 EACH _____

FOR ATTESTATION UNDER THE SEAL OF THE DEPARTMENT $ 3.00 EACH _____

GSA CHARGE _____

TOTAL CHARGE - _____

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

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

C.A. 78-322 & 78-420
Consolidated
Exhibit 1B

DJ-118
(ed. 7-1-67)

U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20530

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✓	1 each	Washington

DESCRIPTION OF RECORD REQUESTED (include any information which may be helpful in locating record)
Film and relevant reports of L.H.Oswald's literature distribution and arrest in New Orleans 8/63, taken by Jim Doyle, John Martin, WDSU-TV and WWL-TV photographers and by an unknown person, prints of WDSU film made to show third man assisting Oswald, as further described in attached letter.

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

FILL IN IF IN PENDING → LITIGATION	COURT (check one) ☐ FEDERAL ☐ STATE	DISTRICT	NAME OF CASE	DOCKET NUMBER

Harold Weisberg
SIGNATURE

FOR USE BY DEPARTMENT OF JUSTICE ONLY

THIS REQUEST IS:

☐ GRANTED

☐ DENIED

☐ REFERRED

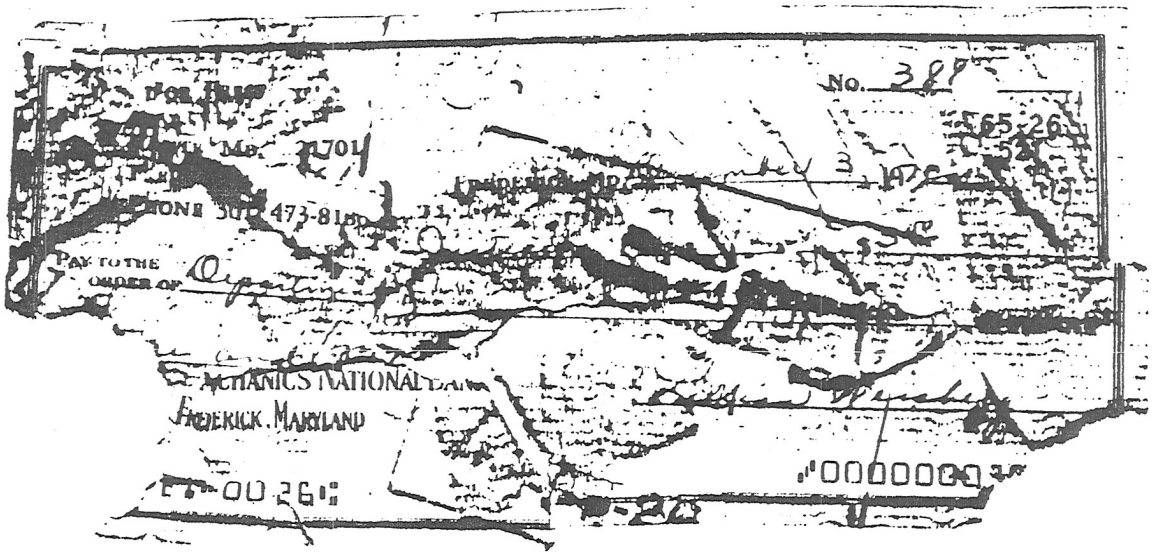
A MINIMUM FEE OF $3.00 MUST ACCOMPANY THIS REQUEST. OTHER CHARGES ARE AS FOLLOWS. (do not write in this box)

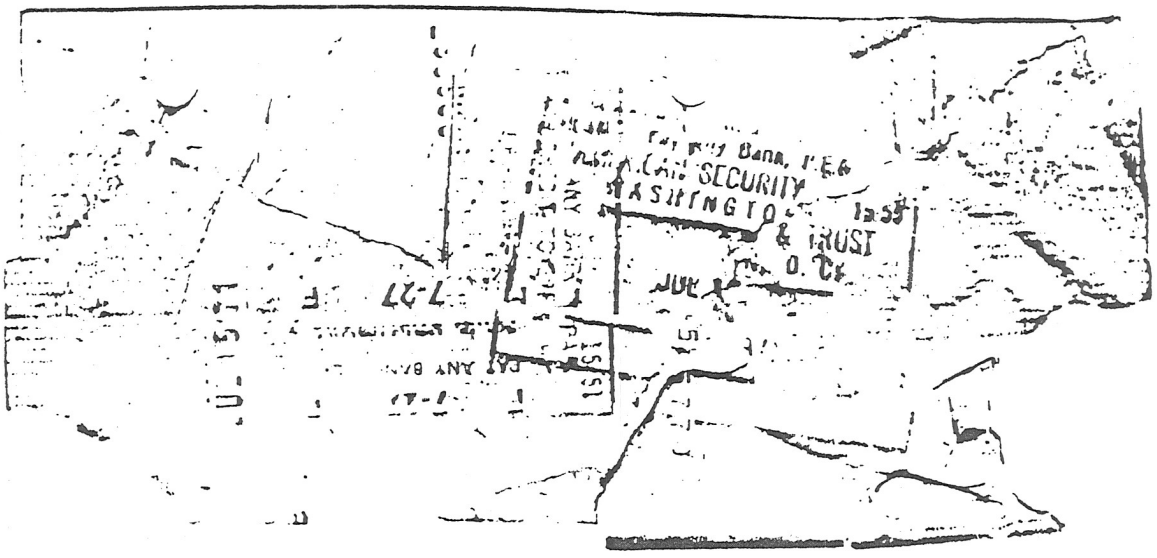
FOR SECOND AND EACH ADDITIONAL ONE QUARTER HOUR SPENT IN SEARCHING FOR OR IDENTIFYING REQUESTED RECORD $ 1.00	
FOR EACH ONE QUARTER HOUR SPENT IN MONITORING REQUESTER'S EXAMINATION OF MATERIAL $ 1.00	
COPIES OF DOCUMENTS: 50¢ FIRST PAGE, 25¢ EACH ADDITIONAL PAGE	
FOR CERTIFICATION OF TRUE COPY $ 1.00 EACH	
FOR ATTESTATION UNDER THE SEAL OF THE DEPARTMENT $ 3.00 EACH	
GSA CHARGE	
TOTAL CHARGE	

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

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

C.A. 78-322 & 78-420
Consolidated
Exhibit 2





C.A. 78-322 & 78-420
Consolidated

Exhibit 3

U.S. Department of Justice

Office of Legal Policy

Office of Information and Privacy

Washington, D.C. 20530

DEC 31 1984

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

Re: Appeal Nos. 80-1644
and 81-0533
RLH:PLH

Dear Mr. Weisberg:

This letter is to advise you that we have located certain records that appear to be responsive to your requests to the Criminal Division for records relating to the assassination of President John F. Kennedy. Those requests are the subject of Appeal Nos. 80-1644 and 81-0533. These records contain the original dictabelt provided to the HSCA by the Dallas Police Office. We have also located unindexed working copies of portions of that tape in the Technical Services Division of Bureau Headquarters. These records are now being reviewed and a release determination will be made as soon as possible.

You will be interested to know that these records were located as a result of a lead uncovered by Ms. Hubbell during the processing of certain documents you requested from the Criminal Division that were referred to this Office. The dictabelt and related documents have been stored for the last several years in the office safe of Roger Cubbage, a Criminal Division attorney, who was an assistant to Robert Keuch.

Sincerely,

Richard L. Huff, Co-Director
Office of Information and
Privacy

C.A. 78-322 & 78-420
Consolidated
Exhibit 4

Mr. Richard L. Huff, Co-Director
OIP
Department of Justice
Washington, D.C. 20530

1/5/85

Re; Appeals Nos. 80-1644, 81-0533

Dear Mr. Huff,

In your 12/31 you are correct, I am indeed interested in both the working excerpts and whatever portion of the transcripts of JFK assassination broadcasts by the Dallas police Ms. Hubbell has located. I believe I provided much more than the two appeals you cite, but because nothing was done contemporaneously it may not now be practical for you to retrieve it, certainly not without a great effort that from memory I can save your office.

Each of the two Dallas police channels was monitored continuously, one by dictabelt and the other by a Gray Audiograph, which makes a disc-type recording. The existence of these recording has presented the FBI with serious problems because about five minutes were obliterated at just the time of the assassination and it did nothing at all about the untoward business. I recall no record even suggesting an investigation by it to determine the cause, nor any report about the matter to the Warren Commission. This incident is of continuing scholarly and scientific interest, was of great interest to HSCA and in response to its request the Attorney General promised to have an impartial scientific study made. It was arranged for this to be done under conditions that preclude use of FOIA to obtain any information that was not then published.

What the FBI was careful to keep outside its main assassination files is the fact that it made tape recordings from the police recordings. I believe it used its own equipment (Wollensak) in this, that it was done in the police radio room, and without question the FBI transcribed portions for the Warren Commission, which published them. And I tell you, there are omissions in its transcription as published. Which may give the FBI additional problems.

You refer to the "original distabelt," in the singular. There were more than one dictabelt and there is an existing question of originality, dubs having been made earlier. You do not refer to the Gray discs, also plural. and not to any taped copies other than for lab use. These exist, the FBI has them, and I've been trying to get them for years. There should be coverage of the chain of possession on paper and that, of course, also is of interest. However, it is not where you'd expect to find it, in the assassination records. No other search is claimed to have been made.

It ought be a relatively simple matter if you ask the Dallas FBI office to search its indices other than the special one it made to have control over the information it sent to Washington for possible forwarding to the Commission. An obvious search is under the police, another under known names, such as Bowles, whose full name I've forgotten but provided frequently. and above all, all references must be reported because the FBI has a built-in evasion, filing records relating to local police as Classification 80, which actually represents "Laboratory Research Matters" and in the field offices isn't that at all.

As of my last knowledge, SA Udo H. Specht was the Dallas case agent, and as of my last knowledge it had been approved to use the original and retired case agent, Robert P. Gemberling, who ought have personal knowledge.

There was a time when Dallas kept such matters in a special cabinet, one I identified earlier. I have no way of knowing what, if any, of its contents were not sent to FBIHQ in 1978.

There ought be no problem in disclosing the records Ms. Hubbell located and

I am confident there there are no privacy considerations whatever the time of the records. The FBI disclosed the list of its Dallas employees and those on TD there, with home addresses and phones and those involved through HSCA have also been publicly identified. I tell you this because it is possible that when I can go over those records I may be able to save you time and effort.

The original tape recordings are quite important because the dictabelts have deteriorated, through time and repeated uses, which, with a needle, do damage the belts. This is also, at least to a degree, true of belt duplicates.

When dubs are made for me, I would appreciate a second set, for which I will pay. This also will be economical for the FBI because there is another researcher who will, without question, want a set. I will provide him with xeroxes of the records you send me and save you and the FBI that time and trouble.

Are you aware that I was to have received all relevant records of the Criminal Division? That I filed appeals directly with it (Mr. Buckley, as I recall) and with Mr. Shea and never received a word in return?

For your and Ms. Hubbell's information, the five minutes of obliterated conversation were analyzed for both HSCA and the Attorney General, with contradictory interpretations. HSCA's experts detected what the FBI claims there was not, a fourth shot. The AG's panel disputes this.

Unofficial and poor copies of the tapes have been available for years. For your additional information, what I refer to above as omitted by the FBI relates to Officer J.D. Tippit, who also was killed.

As I think you can see, this is a matter of continuing interest, so if there is any way in which I may be able to help, please let me know. And my thanks to Ms. Hubbell, please.

Sincerely,

Harold Weisberg

Harold Weisberg
7627 Old Receiver Rd.
Frederick, MD 21701

B. Assistance to Warren Commission

1. Basic scope of official relationship

2. Early friction over intelligence allegation (LHO)

3. Withholding of Hosty name from Oswald notebook

4. Hoover instructions to agents not to volunteer info. to WC

5. Destruction of Hosty note: implications

6. Withholding of secret "Gale Report" on Bureau mistakes in earlier Oswald probe; disciplining of officials

7. Hoover instructions ordering that no Bureau official attend earliest WC session, despite Katzenbach request

8. Delay in sending information to Commission regarding Bureau's past nine contacts with Ruby

9. Apparent withholding of "Oswald imposter" memos of 1960-1961

Referred [redacted]

11. Handling of Ruby polygraph

C. Related Bureau Actions and Activities

1. Preparation of dossiers on WC staff after the Report SEPT. 24, 64

2. Hoover's leaking of early FBI report (Sullivan statement)

3. Hoover views on Communism and Oswald (Kronheim letter)

4. Sullivan relationship with Angleton: pre-arranging of answers to Commission questions.

5. Secret plan to distribute Oswald-Marxist posters in Bureau plan to discredit Communist Party; prejudicial aspects

6. Hoover reaction to Warren Report

7. Subsequent preparation of sex dossiers on critics of probe

8. Questions regarding FBI's continual pledge that "case will remain open for all time;" actual designation of it as "closed" in internal Bureau files.

UNITED STATES GOVERNMENT

Memorandum

C.A. 78-322 & 78-420
Consolidated

Exhibit 6

TO : SAC, LOS ANGELES (100-71285)

DATE: 3/20/68

FROM : SA RICHARD H. BLOESER

SUBJECT: KENNEDY ASSASSINATION TRUTH COMMITTEE
IS - C

SOURCE	ACTIVITY	RECEIVED	AGENT	LOCATION
[redacted]	2/29/68	3/12/68	IC BERNARD P. BLAIS	[redacted] (WR)

Informant's report has been Xeroxed and is attached.

ACTION:

All necessary action in connection with this memo has been taken by the writer.

b2
b7

INDEX: LALYNN (phonetic)

CC: 1 - NEW ORLEANS (REGISTERED)
100- (JIM GARRISON)

1 - DALLAS (REGISTERED) 89-43
~~100~~ (ROGER CRAIG)

7-512-8 NY
4?-4017 AI
8?-?60 NI

[redacted]

- 100-DEAD (PENN JONES)
- 100-67795 (MIKE FARRELL)
- 100-71286 (MIKE RAVEN)
- 100-DEAD (JERRY LUCAS)
- 100-DEAD (STEVE JAFFEE)
- 100-DEAD (STEVE BURTON)
- 100-62251 (FREE PRESS BOOK STORE)
- 100-68937 (LALYNN) (phonetic)

RHB/lch
(12)

Read by ____

89-43-8161

SEARCHED ... INDEXED ...
SERIALIZED ... FILED ...
MAR 29 1968
FBI—DALLAS

The attorney representing Mr. Bradley was at this meeting and it was actually mentioned by the people that he was in the audience. It was also mentioned that he was taping the meeting and that is why JAFFE said he would have to watch what he said.

Following the recess, about 125 people came back and joined those who had stayed. When source came back into the room there were little clusters of people gathered together. Quite a large group was at the front where the speakers were and there were about 20 people gathered around Bradley's attorney, wanting to know his views on the investigation.

Little bits of conversation were overheard - mostly the people were just trying to find out exactly what these people were after. While source was waiting in line before the meeting started, he picked up the name of a woman who seemed to know quite a few important people. Her name was LALYNN (ph); she was heavyset, short, about 50 years old, with gray hair, and she knew enough important people to be called out of line and given a seat in the room before anyone else was allowed in. She was a friend of JAFFE.

Quite a few of the people at this meeting were seen by source at the meeting the previous night. They were right up in front.

No literature was passed out.

S-237/Mc

C.A. 78-322 & 78-420
Consolidated
Exhibit 7

9/26/66

MR. TOLSON:

RE: BIASED BOOKS RE
ASSASSINATION OF
PRESIDENT KENNEDY

[redacted] called me from New York this morning. He asked that his best regards be given to you and the Director. (b)(7)(C)

[redacted] is fed up with the rash of distorted, biased books currently on the market concerning the assassination of President Kennedy. He particularly is incensed at the books by Epstein and Mark Lane. (b)(7)(C)

I told [redacted] briefly of the background of both Epstein and Lane. He asked if there was something he could to do to set the record straight. He stated the FBI had not come off very good in either of those books. I told him we knew this; however, the Director could not be placed in the position of making a public statement inasmuch as we were the investigative agency with responsibilities of not only investigating but also running down considerable leads for the Warren Commission; consequently, it would be presumptuous for the FBI to speak out. [redacted]

[redacted] asked if we could not possibly furnish him some off-the-record information [redacted] I told him I would check with the Director and let him know.

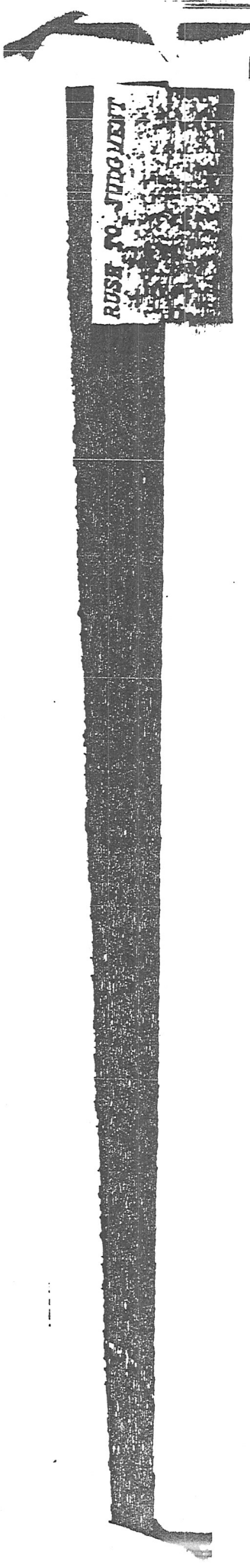
It is suggested we take the analysis prepared here at the Bureau on Mark Lane's book and work up a blind memorandum which can be used by [redacted] in making Mark Lane's book look ridiculous. We, of course, would not furnish [redacted] any information which is confidential or which has not been released to the American public. We are, however, in a position to furnish information that will make Lane's book look stupid. The said blind memorandum, if this plan is approved, will be sent to you and the Director for approval prior to being given to [redacted]

Respectfully,

C. D. DeLoach

cc- Mr. DeLoach
Mr. Rosen
Mr. Sullivan
Mr. Wick
Cmn-Com (5)

C.A. 78-322 & 78-
Consolidated
Exhibit 8



C.A. 78-322 & 78-420
Consolidated
Exhibit 9

FILE (80-879) 11/28/67

SAC J. GORDON SHANKLIN

JIM BISHOP
AUTHOR

On Monday, 11/20/67, Mr. JIM BISHOP and his wife KELLY appeared at the office and discussed with me the book he is going to write about the day President KENNEDY died. He was most appreciative of the accommodations he had had at the Hotel Texas, Ft. Worth, stating that the suite that the late President KENNEDY had used the night before his death had been made available to him gratis by the management.

He then furnished me with a list, which is attached, of various people that he stated he was going to try to see in Dallas. He stated he did want to talk to SA VINCENT E. DRAIN and me about what we did no the day of the assassination, with particular reference to the securing of the evidence from the Dallas Police Department by SA DRAIN, the time, how it was taken to Washington, and when it arrived in Washington.

On Nov. 22, 1967, Mr. BISHOP and his wife came back to the office and stated they had been having quite a bit of success with everyone they had contacted with the exception of the Dallas Police Department, who had told them they would not give them anything. Mr. BISHOP was furnished information concerning the evidence he requested, which was in pages 158, 160 and 161 of the report of SA ROBERT P. GEMBERLING dated 11/30/63 at Dallas, Texas, captioned "LEE HARVEY OSWALD, aka; ASSASSINATION OF PRESIDENT JOHN FITZGERALD KENNEDY, NOV. 22, 1963." The only other information which I furnished was: He wanted to know how I learned that President KENNEDY was shot, and I told him that I had an employee monitoring the police radio. He wanted to know then what I did with the information, and I told him I immediately furnished it to Mr. HOOVER. I also told him that upon receipt of information concerning KENNEDY's death being definitely determined, I furnished this information to Mr. HOOVER.

It is noted he stated that this book would be submitted to Assistant Director DE LOACH prior to publication.

On the morning of 11/24/67, BISHOP called and stated that he and his wife were returning to Florida. He again was most appreciative of the assistance which he had received from the Dallas Office.

89-43

2 - Dallas (80-879) (80-[illegible])

89-43-7646

NOV 29 1967
FBI—DALLAS

C.A. 78-322 & 78-420
Consolidated
Exhibit 10

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

October 10, 1966

MR. TOLSON:

RE: ASSASSINATION OF PRESIDENT KENNEDY;
MEETING WITH JUSTICE FORTAS, 2 p.m. 10/7/66
AND REQUEST FOR DIRECTOR TO WRITE BOOK

I saw Justice Fortas at 2:45 p.m. this afternoon at his chambers at the Supreme Court Building. Pursuant to the Director's instructions, I outlined to Justice Fortas the many reasons why the Director could not accede to the President's and Justice Fortas' request that a lengthy article, series of articles or book be written by the Director concerning captioned matter. I told Justice Fortas the Director wanted to be of all possible assistance to the President and him, however, in this particular instance the Director would appreciate consideration be given to the above reasons why it would not be logical for him to undertake this project.

Without any hesitation, Justice Fortas told me he agreed with the Director. He stated he could not indicate this previously, however, he had argued with the President that it was not logical for the Director to prepare this book inasmuch as the Director in doing so would necessarily have to substantiate the investigative efforts of many other agencies other than those of the FBI.

Justice Fortas indicated he had no argument whatsoever with the Director's thoughts. In reply, I told him the Director had suggested that Chief Justice Warren might undertake such a project inasmuch as he, the Chief Justice, would be acting in his capacity as Chairman of the Warren Commission rather than in the capacity of Chief Justice of the Supreme Court. Justice Fortas stated he doubted Chief Justice Warren would agree to this assumption. He added, however, that Lee Rankin, the Chief Counsel of the Warren Commission, had agreed to write a book; however, Rankin's book would not be ready for publication for approximately one year.

Justice Fortas stated he and the President would deeply appreciate the Director giving consideration to issuing a statement or writing one brief article restricted solely to the controversy

CDD:hmh
(2)
1 - DeLoach

CONTINUED - OVER

34

MEMO TO: MR. TOLSON

RE: ASSASSINATION OF PRESIDENT KENNEDY;
MEETING WITH JUSTICE FORTAS, 2 p.m. 10/7/66
AND REQUEST FOR DIRECTOR TO WRITE BOOK

raised by critics with respect to the differences as shown in the autopsy between the FBI reports and the final conclusion of the Warren Commission. I told Justice Fortas this would be brought to the Director's attention and I felt certain the Director would be agreeable to the issuance of a statement in this regard so long as the statement pertains to this one point.

I brought up the subject of Harold Reis with Justice Fortas. After outlining to him the fact that Reis was undoubtedly responsible for any misunderstanding which had arisen between the Department and the FBI, Justice Fortas interrupted me and said he had known Reis for many years and disliked him intensely ever since he, Justice Fortas, had represented the Puerto Rican Government in dealings for the United States. He stated Reis had stuck a knife in his back on more than one occasion. Justice Fortas stated in one instance he had told former Attorney General Katzenbach in President Johnson's presence of the fact that Reis had a very brazen, undesirable personality and that Katzenbach should get rid of him. Fortas asked me to tell this fact to Ramsey Clark the next time I see Clark. I will, of course, do that this afternoon.

Pursuant to the Director's instructions, we are preparing a statement in line with the President's and Justice Fortas' request.

Respectfully,

C. D. DeLoach

Let me see it.

Sent 10:00 AM 10/7/66

C.A. 78-322 & 78-420
Consolidated

Exhibit //

(Rev. 7 8 70)

DOMESTIC INTELLIGENCE DIVISION - FBI
SOVIET SECTION

9/8, 1970

- Mr. Sullivan
- Mr. C.D. Brennan
- Mr. D.E. Moore
- Mr. Mizoo
- Mr. Branigan
- Mr. D.J. Brennan
- Mr. R.D. Cotter
- Mr. A.W. Gray
- Mr. G.C. Moore
- Mr. Shackelford
- Mr. Wannall

[redacted] (820) (b)(6)

- Open Close
- Steno Pool
- Correct
- Please Call Me
- Please See Me

- Mail Room, 5531
- Foreign Liaison

RECORDS BRANCH
- Consolidation Unit
- Special Mail Room
- Send File
- Bring File Up To Date
- Place on Record & Return
- Indicate Index Reference
- Post in File & Destroy 0-1 or FD-205
- Note File and Return R S to Rm. _____

[redacted]

Room _____

SUPERVISORS

- Mr. Cregar
- Mr. Goble
- Mr. Kavanagh
- Mr. Larson
- Mr. Lee
- Mr. Litrento
- Mr. Martin, L.H.
- Mr. Nolan
- Mr. O'Rourke
- Mr. Peterson
- Mr. Quinn
- Mr. Schaefer
- Mr. Smith, A.E.
- Mr. Taylor
- Mr. Whitson

Tel - Per our conversation earlier today - for your information. Pan Am is on A.L. this week.

You know I was assigned to the "backstopping" detail and Bert Taylor has been my alternate on Oswald

TNG

T. N. GOBLE
RM. 818 9th, EXT. 438

(Rev. 5/25/70)

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL SECTION

9-8, 1970

- Mr. Rosen
- Mr. Malley
- Mr. Shroder
- Mr. McGowan
- Mr. Bolz
- Mr. Scatterday

- Mr. Marshall
- Mr. Mullery
- [redacted] (b)(6)
- Mr. Whitaker
- Mr. Parham

M _____

Room _____

- Mr. Beale
- Mr. Besley
- Mr. Bounds
- Mr. Colwell
- Mr. B. Cooke
- Mr. Foster
- Mr. Gallagher
- Mr. Gordon
- Mr. Grampp
- Mr. Hanlon
- Mr. Huppert
- Mr. Mac Farlane
- Mr. Nehrbass
- Mr. O'Keeffe
- Mr. Perrine
- Mr. Raupach
- Mr. Rowse
- Mr. Schutz

[redacted]

[redacted] 1535
[redacted] 5736
[redacted], 4722
Extra Dup. Supv., 8710
[redacted], 1500
Foreign Liaison
Ident Division
Laboratory
Mechanical Section
Records Branch
Stat. Section
Steno Pool, 2704
[redacted], 6523
(NSPI)
[redacted] 500 13th & K

- Please See Me
- Please Call Me
- Note & Return
- Please Handle
- Please Initial

- Place on Record and Return
- Please Redate
- For Information

Tel - I thought for info in case you get involved. - I had arranged for Raupach to meet with Steven Lachman of the Dept, A M, 9-14-70.

Jim

Room 2258

SUPERVISOR
J.D. Huppert

C.A. 78-322 & 78-420
Consolidated
Exhibit 12

- 1 - Mr. Lenihan

SAC, Dallas

11/22/63

Director, FBI

MARGUERITE CLAVERIE OSWALD
IS - R

Captioned individual is the mother of Lee Harvey Oswald. Inasmuch as it appears subject will be of interest to the U.S. Government in the future due to her voluminous contacts with individuals of prominence and various U.S. Government agencies in her efforts to "clear her son of responsibility for the assassination of the late President John F. Kennedy," Bureau has opened a separate file on subject. Each of the recipient offices should do the same.

[redacted]

State Dept.

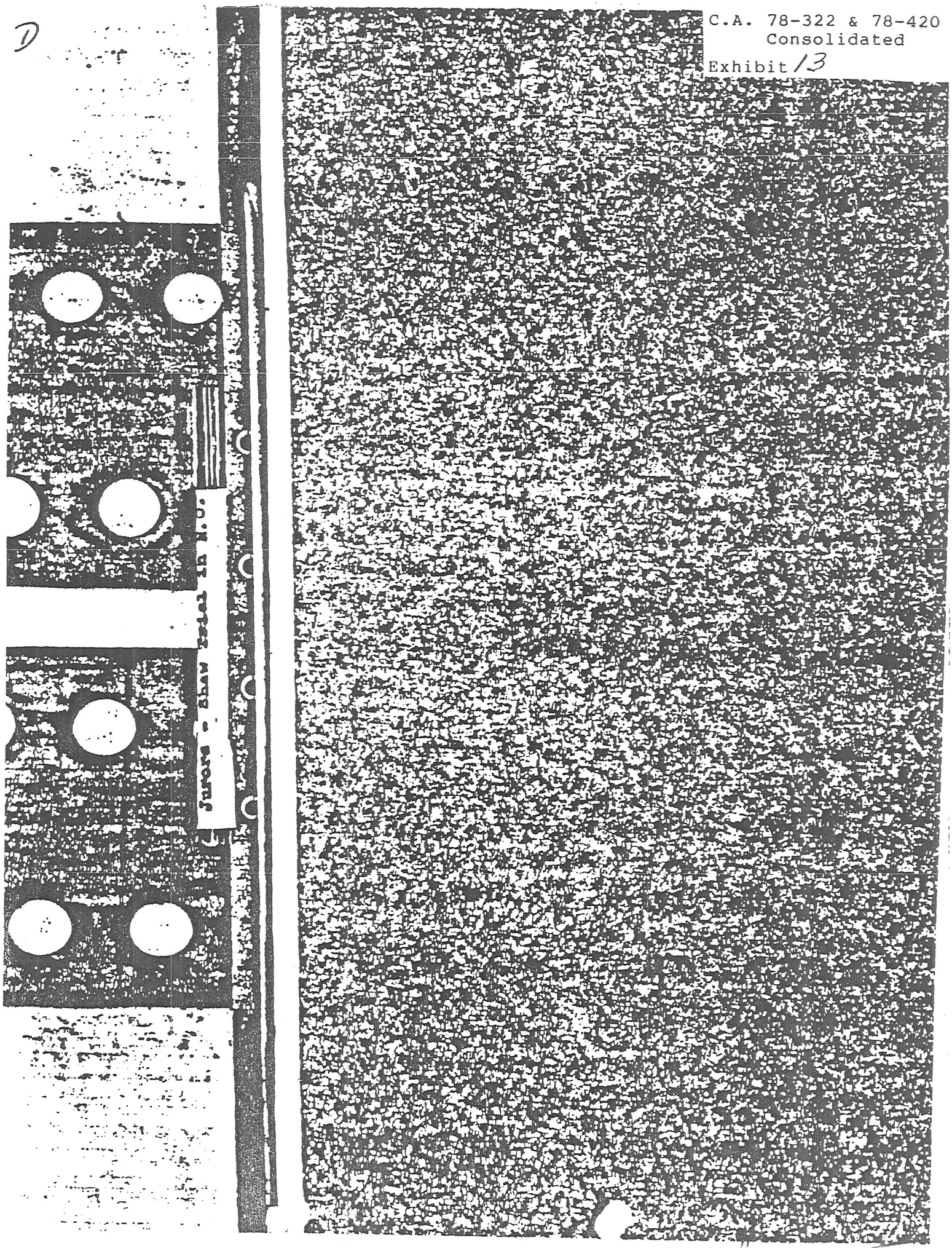
1 - WFO
1 - New York
1 - New Orleans

REL:llt:lam
(7)

Doc 32

C.A. 78-322 & 78-420
Consolidated
Exhibit 13

D



C.A. 78-322 & 78-420
Consolidated
Exhibit 14

XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Document(s) originating with the following government agency(ies) _____, was/were forwarded to them for direct response to you.

_____ Page(s) referred for consultation to the following government agency(ies); _____ as the information originated with them. You will be advised of availability upon return of the material to the FBI.

6 Page(s) withheld for the following reason(s):
OIPR Reference - See 62-109060-6653

☐ For your information: _____

☒ The following number is to be used for reference regarding these pages:
Garrison's Witnesses - Doc. #7

XXXXXX
XXXXXX
XXXXXX

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

FBI/DOJ

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒ Deleted under exemption(s) (b)(7)(C) with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Document(s) originating with the following government agency(ies) _____, was/were forwarded to them for direct response to you.

_____ Page(s) referred for consultation to the following government agency(ies); _____ as the information originated with them. You will be advised of availability upon return of the material to the FBI.

_____ Page(s) withheld for the following reason(s):

☐ For your information:

☒ The following number is to be used for reference regarding these pages:
Garrison's Witnesses, Doc # 4

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

XXXXXX
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FEDERAL BUREAU OF INVESTIGATION

FOIPA DELETED PAGE INFORMATION SHEET

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_____ Page(s) referred for consultation to the following government agency(ies); _____ as the information originated with them. You will be advised of availability upon return of the material to the FBI.

_____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

☒ The following number is to be used for reference regarding these pages:
Garrison's Witnesses - Doc. #6

XXXXXX
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DELETED PAGE(S)
NO DUPLICATION FEE
FOR THIS PAGE
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FBI/DOJ

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FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

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Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒ Deleted under exemption(s) (b)(7)(C) with no segregable material available for release to you.

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Garrison's Witnesses-Doc. # 7

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☐ For your information:

☒ The following number is to be used for reference regarding these pages:
GARRISON'S WITNESSES-DOC. # 8

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C.A. 78-322 & 78-420
Consolidated

Exhibit 15

ANDREWS, DEAN ADAMS (JR)
BANISTER, WILLIAM GUY
BEAUBOUEF, ALVIN R.
BERTRAND, CLAY
BLACKMON, ANDREW
BRINGUIER, CARLOS (DR)
BUNDY, VERNON WILLIAN
BUZENERO, JULIO
DALZELL, WILLIAM WAYNE
DAUENHAUER, J. B.
DAVIS, RUDOLPH RICHARD (JR)
DURHAM, GRADY CLIFFORD
FERRIE, DAVID WILLIAM
HALL, GUY HERBERT
LEWALLEN, JAMES RONALD
LEWIS, DAVID FRANKLIN (JR)
MANIX, SIDNEY L.
MANNING, SIDNEY
MARCELLO, CARLOS
MARTENS, LAYTON PATRICK
MARTIN, JACK S.
NAGELL, RICHARD CASE
NOVELL, GORDON D.
ODOM, LEE
OSWALD, LEON
QUIROGA, CARLOS
RUSSO, PERRY RAYMOND
SEYMOUR, WILLIAM
SHAW, CLAY
SMITH, SERGIO ARCACHA
STANLEY, CARL JOHN

CERTIFICATE OF SERVICE

I hereby certify that this tenth day of July 1985 I caused copies of the foregoing Rule 60(b) Motion to Vacate Judgment, Reopen Case and for Other Purposes to be mailed first-class, postage prepaid, to

Ms. Renee Wohlenhaus
Department of Justice
Room 3334
10th & Constitution Avenue, NW
Washington, D.C. 20530

Harold Weisberg

And in this, typically, the Opposition is unfaithful to fact, misleading, and misrepresents.

The one illustration misused in the Opposition is ticklers. (pages 2-3) But even then the Opposition does not really refer to ticklers but to something of its own creation, entirely different and utterly irrelevant, "tickler systems." There is no relevance to "systems" of ticklers, and this semantical dodge is clearly intended once again to mislead and to misrepresent to this Court and to be immune in these offenses. This is entirely consistent with the various semantical dodges SA John N. Phillips used in his attestations in which he shifted each knowingly incorrect definition of tickler every time he was corrected and never once interpreted the word correctly, not even after Weisberg provided the dictionary meaning.

There is and there can be no purpose in defining "tickler" as "tickler systems" other than to be evasive and to mislead and deceive the Court and to perpetuate the offenses alleged by Weisberg.

Even then, however, the Opposition is not truthful because, while Weisberg never referred to any "tickler systems," the Opposition, in misrepresenting that he did, then states "that the Dallas and New Orleans field offices, like all others, do not maintain tickler systems." In fact, Phillips himself attested to their use of a "tickler system" when Weisberg presented a FBIHQ directive to the Dallas office to establish a certain tickler. In trying to explain that away, Phillips attested to that particular tickler as a system of keeping track of things to be done.

What gets lost in all of this is that to this day there has

not been any search for any ticklers in either field office and that Weisberg has records of offices indicating the existence of ticklers in them and provided those documents for the case record.

After this deliberate misrepresentation of the unsystemized ticklers in question as "tickler systems," which is basic in the Opposition, it misrepresents further and seriously with regard to the pages of FBIHQ ticklers Weisberg provided with his Motion. It states, with falsehood that cannot be accidental, that his exhibits "include copies of what Weisberg alleges are the 'ticklers' he was asking the FBI to search for pursuant to this FOIA request." This is not true, the FBI and its counsel know it is not true, and the untruth is stated to obfuscate the realities, that when Phillips swore that all FBI ticklers are preserved for only a few days and then are "routinely destroyed" he swore falsely and knew he swore falsely; and that these FBIHQ ticklers, which Weisberg identified as from FBIHQ and not from the field offices, refer to relevant information in the field offices that is known to exist, is known to be relevant, and remains withheld. Even now, at this late date.

Where in the midst of this verbiage, distortion, misrepresentation and straight-out untruth the Opposition is, atypically, not incorrect, it is evasive and it ignores the seriousness of what Weisberg alleges. "In addition," the Opposition states (page 2), "Weisberg argues that the FBI affiant, Mr. John Phillips, who attested to the responses in this case was also responsible for the responses in the other cases." That is the Allen case in which this new evidence was disclosed while, simultaneously, the one and only John Phillips

was swearing to the contrary in this litigation - inconsistently and in self-contradiction to its nonexistence, to the FBI's need of discovery to be able to locate it, and to the FBI's need of discovery from Weisberg to be able to prove that it had provided what it and Phillips knew very well it had and had not provided. The Opposition does not in any way deny that Phillips was at one and the same time supervising disclosure in the Allen case of records reflecting the existence of information relevant in this case and swearing to its nonexistence and alleged discovery needs in this case. Instead of denying what cannot be denied, while pretending to do that, the Opposition again misrepresents in stating that "Weisberg concludes that Mr. Phillips was defrauding this Court by not providing the information to Weisberg which was provided to Allen."

Weisberg concludes no such thing, but this misrepresentation, which is deliberate if the authors of the Opposition read Weisberg's Memorandum, also is basic to the FBI's perpetuated misrepresentations.

Weisberg went into detail (aka "rambling," "regurgitating" and "rehashing" in the Opposition) about the history of Allen's request and of Phillips' personal knowledge of it and of disclosures in it and, specifically, Weisberg stated that when he received copies from Allen he withdrew his information request similar to Allen's for FBIHQ, not field office, information.

Without this deliberate misrepresentation of the reality the Opposition would find it impossible to address the reality that, in addressing the fraud, misrepresentation and false swearing employed to obtain the judgment relief from which he seeks, Weisberg stated

that, from his knowledge of the FBI's methods and practices, what was disclosed to Allen reflects the existence of relevant information in the field offices not provided to Weisberg - and to the knowledge of the FBI's affiant Phillips is known to exist and to be withheld.

Each and every exhibit of illustrations from what was disclosed to Allen was used, clearly and explicitly, to show that the FBI had amd has and knows it had and has field office information withheld from Weisberg, that no discovery from him was necessary for the FBI to locate and process it and that, obviously, no discovery from him could have enabled the FBI to prove in this litigation that it had provided what it knowingly withholds. With Weisberg's repetition of this refrain throughout, honest misunderstanding of it and his purposes is entirely impossible. He used it to show misrepresentation, fraud and false swearing from which he seeks relief.

In the paragraph that begins by describing the new evidence Weisberg presented as "regurgitating," the Opposition pretends that it is addressing all of Weisberg's allegations when in fact it refers to but a single one and then only with the most serious misrepresentation (in referring to ticklers as "tickler systems"). It also pretends that all was explained away in affidavits and argument, which is not true, and it concludes with an even larger untruth that is sweeping in its all-inclusiveness: "Nothing presented in Weisberg's latest pleading shows that the 'new evidence' came from Dallas or New Orleans, as his request specifically required." (emphasis added, page 3)

Origin is entirely immaterial. What is material is whether or not the withheld information exists in either field office so whether or not any "came from" either office is not relevant. However, it

simply is straight-out false to represent that "nothing presented in Weisberg's latest pleading shows that" any of the new evidence came from the field offices. As one of many conspicuous examples, Weisberg cites what he presented on the existence and finding of the recordings of the Dallas police radio broadcasts of the time of the assassination along with documents relating to them and his citation of Phillips' not infrequent false swearings with regard to them. (Phillips began by lying, under oath, in swearing that the FBI had never had them and concluded in his series of lies with another, that they had been given to the Warren Commission. This is not true and he and the FBI know it is not true.) Without question, this information reached Washington from the Dallas field office. Without question, the recordings and documents are relevant. And without question, long, long after they were located, exactly where Weisberg had indicated they would be and even after Weisberg was informed of this in writing, they remain withheld, along with all the located and relevant records. This and more like it is most certainly "in Weisberg's latest pleading," along with illustrative exhibits (Exhibits 3 and 4), which also remain ignored while being lied about all over again to this Court.

Did Weisberg have to inform the FBI that its New Orleans information about the New Orleans persons who figured in District Attorney Jim Garrison's investigation and of the New Orleans Clay Shaw jurors came from its New Orleans office?

Is it possible that any FBI special agent or any Department of Justice lawyer handling FBI litigation does not know that, almost

without exception, case information originates in the field offices and is also routed to them if of other origin? Special agents and Department counsel know very well that such information as Weisberg cited does not originate in FBIHQ. Moreover, he was specific in stating that information was routed to the Office of Origin, Dallas, and other offices, and that New Orleans was virtually a second office of origin because of Lee Harvey Oswald's activity there and because of the Garrison investigation there.

So, while it is not true that Weisberg did not show any of "the 'new evidence' came from" the field offices, because he did, with specificity, it also was not necessary for him to do this, as the Opposition represents.

Bearing on the FBI's intent to keep on misleading and misrepresenting to this Court is the fact that Weisberg also illustrated the routing to both the Dallas and New Orleans offices of relevant information pertaining to the so-called "critics." (Exhibit 6) It thus is obvious that, as the FBI knew without Weisberg informing it, the field offices have relevant information that was sent to them as well as what went to FBIHQ from them. Weisberg believes this was known to the FBI's counsel when counsel made this additional attempt to mislead and misinform this Court. Certainly what he sent to FBI counsel is specific enough and is documented, and this Opposition is their response to it.

With misrepresentation heaped on misrepresentation the Opposition then repeats (page 3) its basic misrepresentation, that "(i)n any event, all these [i.e., Weisberg's] allegations are irrelevant

because they go to the decison of this Court on the merits made over twenty months ago as to the adequacy of the search in this case."

This is a deliberate misrepresentation of the purpose of a Rule 60(b) motion in general and it is, specifically, a deliberate misrepresentation of Weisberg's stated purpose, to obtain relief from the judgment based on misrepresentation, fraud, false swearing and the like. All that follows in the Opposition likewise is irrelevant and does not in any way address the actual and stated purpose for which Weisberg filed his Rule 60(b) Motion and, in fact, to which any Rule 60(b) motion is limited.

But there still is no end to misrepresentation and just plain gall in this Opposition. In admitting that "(a) District Court" can "consider a Rule 60(b) motion after an appellate court has ruled on a matter ... if the motion is not a frivolous attempt to relitigate the claim" (thus explaining the need for all its untruth and misrepresentation and inappropriate descriptives like "regurgitating" to describe indubitably and undeniedly "new evidence"), the Opposition seeks to hold Weisberg responsible for the transgressions of the FBI and Department of Justice by attributing to him "a belated attempt to present evidence which should have been presented earlier." (page 4) The FBI and its counsel know very well, and unrefutedly Weisberg's Memorandum establishes, that the FBI made it impossible for him to present this new evidence earlier because the FBI withheld it from him when, undeniedly, the FBI knew it had this new evidence and knew its relevance in this litigation.