

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GREGORY STONE, et al., :
 :
 Plaintiffs, :
 :
 v. : Civil Action No. 87-1346 CRR
 :
 FEDERAL BUREAU OF INVESTIGATION, :
 et al., :
 :
 Defendants :

PLAINTIFF'S LOCAL RULE 108(h) STATEMENT

Pursuant to Local Rule 108(h), plaintiffs submit the following statement of material facts as to which they contend there is no genuine issue:

1. In other cases of historical interest, such as those involving the assassinations of President Kennedy and Dr. Martin Luther King, Jr., the Federal Bureau of Investigation ("the FBI") has disclosed the names of law enforcement personnel, including the names of FBI Special Agents. Declaration of Quinlin J. Shea, Jr. ("Shea Declaration"), ¶2; Declaration of John H. Gordon ("Gordon Declaration"), ¶4; Declaration of Philip H. Melanson ("Melanson Declaration"), ¶3; Declaration of Steven Rosswurm ("Rosswurm Declaration"), ¶7; Declaration of William W. Turner ("Turner Declaration"), ¶13; Declaration of Paul Schrade ("Schrade Declaration"), ¶5; Declaration of Harold Weisberg ("Weisberg Declaration"), ¶¶7-12; Declaration of Gregory F. Stone ("Stone Declaration").

2. No harassment or other substantial invasion of privacy is known to have occurred as a result of the disclosure of the

names of FBI Special Agents in historical cases. Shea Declaration, ¶3; Turner Declaration, ¶11; Weisberg Declaration, ¶¶5, 7-8, 11; Gordon Declaration, ¶7; Declaration of David R. Wrone ("Wrone Declaration"), ¶4.

3. The names of virtually all Los Angeles Police Department employees engaged in the investigation of the Robert F. Kennedy assassination ("RFK case") have been released as part of the police files on that case. Gordon Declaration, ¶5; Melanson Declaration, ¶3; Schrade Declaration, ¶5; Turner Declaration, ¶11; Stone Declaration, ¶¶ 13-5, 21.

4. The names of FBI Special Agents often become public available during the course of their professional duties. Turner Declaration, ¶¶6-9; Stone Declaration, ¶¶24-25, 54; Fiduccia Declaration, ¶¶4, 8; Weisberg Declaration, ¶31.

5. There is a substantial public interest in the disclosure of the names of law enforcement personnel in historical cases, including the RFK case. Declaration of David J. Garrow ("Garrow Declaration"), ¶3; Gordon Declaration, ¶8; Declaration of Joseph L. Jacobson ("Jacobson Declaration"), ¶9; Declaration of Richard Gid Powers ("Powers Declaration"), ¶2; Rosswurm Declaration, ¶6; Shea Declaration, ¶2; Turner Declaration, ¶¶2, 13; Wrone Declaration, ¶¶2, 10; Declaration of James Richard Hougan ("Hougan Declaration"), ¶¶5-7, 21; Declaration of Robert J. Joling ("Joling Declaration"), ¶¶8-9; Declaration of Gerald McKnight ("McKnight Declaration"), ¶¶2-3; Melanson Declaration, ¶¶2, 7; Declaration of Dan E. Moldea

("Moldea Declaration"), ¶¶9-13; Stone Declaration, ¶¶9, 11, 27, 29, 65.

6. The RFK case is the subject of significant controversies and uncertainties which historical study may help resolve or clarify. Gordon Declaration, ¶8; Moldea Declaration, ¶¶8-9; Turner Declaration, ¶2; Melanson Declaration, ¶8; Jacobson Declaration, ¶9; Stone Declaration, ¶¶37-47.

7. A purely documentary study of FBI records in historical cases, including the RFK case, is significantly enhanced by the disclosure of the names of law enforcement personnel; Weisberg Declaration, passim; Wrone Declaration, ¶¶7-8; Turner Declaration, ¶12; Stone Declaration, ¶¶31-36; Moldea Declaration, ¶11; Schrade Declaration, ¶6.

8. Law enforcement personnel, including FBI Special Agents ("street agents"), often have significant information beyond what appears in the official documentary record of a case. Garrow Declaration, ¶¶3-7; Moldea Declaration, ¶¶9-10; Powers Declaration, ¶2; Declaration of Steve Weinberg ("Weinberg Declaration"), ¶5; Weisberg Declaration, ¶30; Wrone Declaration, ¶¶6-7; Stone Declaration, ¶¶37-52; Turner Declaration, ¶¶4-5, 12.

9. Law enforcement personnel, including FBI Special Agents, are often willing to share information they possess on cases of historical interest with researchers and scholars. Garrow Declaration, ¶4; Moldea Declaration, ¶10; Weisberg Declaration, ¶30; Hougan Declaration, ¶23; Fidducia Declaration, ¶10; Turner Declaration, ¶5; Melanson Declaration, ¶5; Wrone Declaration, ¶5.

10. The information possessed by FBI personnel on specific cases has value for understanding and improving agency practices and performance. Garrow Declaration, ¶¶4-7; Turner Declaration, ¶2; Moldea Declaration, ¶11; Stone Declaration, ¶¶4, 32, 65; Melanson Declaration, ¶¶2, 4.

11. FBI personnel acting in the course of their official duties have less of a privacy interest than do other citizens whose names appear in investigative files. Weinberg Declaration, ¶7; Modea Declaration, ¶12; Melanson Declaration, ¶8; Stone Declaration, ¶61.

Plaintiffs contend that the following issues of material fact are genuinely in dispute:

1. Law enforcement personnel, including FBI Special Agents, can be expected to have valuable knowledge which will contribute to historical understanding and evaluation of the performance of law enforcement agencies. Turner Declaration, ¶¶4, 12; Weinberg Declaration, ¶5; Jacobson Declaration, ¶5; Hougan Declaration, ¶21; Powers Declaration, ¶2; Wrone Declaration, ¶¶6, 8; Moldea Declaration, ¶10; Melanson Declaration, ¶8; Schrade Declaration, ¶6, Weisberg Declaration, ¶¶14-30; Stone Declaration, ¶¶27, 20-47. Contra: Declaration of John F. Mencer ("Mencer Declaration"), ¶¶16, 20.

2. Disclosure of the names of FBI employees in the RFK case cannot reasonably be expected to constitute a significant invasion of privacy except in the rare case. Turner Declaration, ¶10; Jacobson Declaration, ¶¶7-8; Moldea Declaration, ¶¶10, 13; Hougan

Declaration, ¶6; Weisberg Declaration, ¶¶4-5, 7; Schrade Declaration, ¶17; Stone Declaration, ¶¶53-64; Melanson Declaration, ¶¶3, 7. Contra: Mencer Declaration, ¶15.

3. No significant detriment to the performance of official duties by law enforcement personnel could reasonably be expected to result from disclosure of their names. Stone Declaration, ¶¶24, 57-58. Contra: Mencer Declaration, ¶15.

JAMES H. LESAR #114413
918 F Street, N.W., Suite 509
Washington, D.C. 20004
Phone: 393-1921

Counsel for Plaintiffs