

Assistant Attorney General
Civil Division

January 19, 1976

Attn: Messrs. Jeffrey Axelrad, Michael Stein

Director, FBI

HAROLD WEISBERG v.
UNITED STATES DEPARTMENT OF JUSTICE, et al.
(UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA)
CIVIL ACTION NO. 75-2021

This is to confirm the substance of the telephone conversations on January 14, 1976, between Mr. Michael H. Stein of the Civil Division and Special Agent Parle Thomas Blake of our Legal Counsel Division.

It will be recalled that Mr. Weisberg instituted suit in the United States District Court for the District of Columbia, and one of his allegations was that the FBI had failed to comply with his request, made pursuant to the Freedom of Information Act (FOIA), for FBI Laboratory reports concerning the assassination of President John F. Kennedy. Our position was that Mr. Weisberg had in fact been furnished all material we had been able to locate which responded to his request. On July 15, 1975, United States District Court Judge John M. Pratt granted defendants' motion to dismiss the action as moot.

On September 8, 1975, Mr. Weisberg filed his Notice of Appeal to the United States Court of Appeals for the District of Columbia, although we were not aware of this until advised of same by Mr. Stein in his January 14, 1976, telephone call to Special Agent Blake.

During the above-mentioned telephone conversation, Mr. Stein indicated that, on page 17 of his appellate brief Mr. Weisberg quoted from the testimony of Special Agent Robert A. Frazier before the Warren Commission (contained on page 69, volume V, Hearings before the President's Commission on the Assassination of President Kennedy). Mr. Weisberg's apparent contention was to the

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effect that there were two separate FBI Laboratory reports concerning the spectrographic analysis of bullet fragments and lead residues located by the FBI in connection with its investigation of President Kennedy's assassination. Mr. Weisberg apparently contended that one report was prepared by Special Agent John F. Gallagher, and the other was prepared by Special Agent Frazier. Mr. Weisberg further contended that, although he had requested these reports, he had never been furnished them. Mr. Stein indicated that he had been able to answer all other allegations contained in Mr. Weisberg's appellate brief, but requested FBI assistance in formulating an answer to this specific allegation.

Special Agent Blake advised Mr. Stein that, after securing a copy of Mr. Weisberg's brief as well as the appropriate volume of the Warren Commission report, he would attempt to furnish Mr. Stein the facts concerning Mr. Weisberg's allegation as soon as possible.

Special Agent Blake contacted Special Agent John W. Kilty of the Laboratory Division of the FBI. Special Agent Kilty advised as follows concerning Mr. Weisberg's allegation:

The Laboratory report of Special Agent Frazier to which Mr. Weisberg refers was a lengthy report dated November 23, 1963, directed to Jesse E. Curry, Chief of Police, Dallas, Texas, and contained the results of numerous Laboratory examinations conducted by various personnel in the FBI Laboratory concerning the Kennedy assassination. Special Agent Kilty explained that Special Agent Gallagher had performed the above-mentioned spectrographic analysis, and furnished the results thereof in "rough draft" dictation to Special Agent Frazier, who incorporated it, along with the results of other Laboratory examinations, into his November 23, 1963, report. It can be thus seen that there were neither two separate spectrographic analyses nor two separate "reports."

Special Agent Blake telephonically advised Mr. Stein of the above, and also advised him that attachment G of Mr. Weisberg's June 2, 1975, affidavit, filed with the District Court in this action, indicated that Mr. Weisberg was furnished Special Agent Frazier's November 23, 1963, FBI Laboratory report by letter dated

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May 28, 1975, from Jane F. Smith, Director, Civil Archives Division, United States General Services Administration, to Mr. Weisberg's attorney, James H. Lesar. Mr. Stein indicated that he would need no further assistance from the FBI at this time in answering Mr. Weisberg's appellate brief, but would furnish the FBI copies of all documents filed in this appeal and keep us advised of pertinent developments.

We would very much appreciate being immediately advised in all cases when Notice of Appeal is filed in actions in which the FBI is a defendant or is involved to the extent that we have a substantial interest in the final outcome of the litigation.

1 - United States Attorney
District of Columbia
(Attn: Mr. Michael Ryan)