

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Harold Weisberg,)	
)	
Plaintiff,)	
)	
v.)	Civil Action
)	No. 75-1996
U. S. Department of Justice,)	
)	
Defendant.)	

NOTICE OF FILING

Pursuant to this Court's Order of December 1, 1981, (the Order), defendants hereby submit the Fourth Affidavit of John N. Phillips (relating to a search for "the April 4, 1968 taxicab manifest of Memphis cab driver James McCraw" (the Order, p. 4), Attachment A); the Affidavit of John W. Kilty, the Fifth Affidavit of John N. Phillips and a copy of a letter to Mr. Harold Weisberg (relating to a "search for and release [of] neutron activation and spectrographic analysis performed in the investigation of Dr. King's assassination" (the Order, p. 2), Attachment B); a copy of a letter to Mr. Harold Weisberg (relating to the release of Memphis field office file 149-121 and Savannah internal field office memoranda dated August 6, 1968, August 28, 1968, and June 5, 1969 (the Order, pp. 3-4), Attachment C); and the Declarations of Robert J. D'Agostino and Robert M. Yahn (relating to the search for "DJ file 41-157-147", the agreement by plaintiff through his attorney to forego a review of DJ file 144-19-0, and the release of a "Memorandum to Attorney General re James Earl Ray Possible Evidence of Conspiracy" (the Order, pp. 2-3), Attachment D).

Respectfully submitted,

J. PAUL McGRATH
United States Attorney

CHARLES F. C. RUFF
United States Attorney

Vincent M. Garvey
VINCENT M. GARVEY

William G. Cole
WILLIAM G. COLE

Attorneys, Department of Justice
10th & Constitution Avenue, N.W.
Washington, D.C. 20530
Telephone: (202) 633-3358

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Harold Weisberg,)
)
 Plaintiff,)
)
 v.) Civil Action Number
) 75-1996
 U. S. Department of Justice,)
)
 Defendants.)
 _____)

FOURTH AFFIDAVIT OF JOHN N. PHILLIPS

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

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

Due to the nature of my official duties, I am familiar with the procedures followed in processing Freedom of Information Act (FOIA) requests received at FBIHQ. Although I was not initially involved with plaintiff's FOIA request, I am, however, familiar with all aspects of this request as it relates to the FBI. The information set forth herein is based upon my review of the records and correspondence with plaintiff as it relates to this litigation, and upon information provided to me in my official capacity.

(2) The purpose of this affidavit is to respond to the December 1, 1981, order of District Judge June L. Green concerning the search for an April 4, 1968, taxicab manifest of Memphis cab driver James McCraw.

(3) A search of the FBI General Indices was conducted on December 3, 1981. This search surfaced fourteen references to the name James McCraw, none of which are located in the MURKIN file. These fourteen references were retrieved from the respective files in which they were located. A page by page review revealed no connection between the James McCraws in these references and any Memphis taxicab driver.

A

(4) On December 2, 1981, the indices of the FBI Memphis Field Office were searched. Three references to the name James McCraw were found; none of which related to the MURKIN investigation, and none of which were identifiable with a Memphis taxicab driver.

(5) In an effort to locate any material referring to a James McCraw who might be associated with a taxicab manifest, inquiries were made of appropriate Bureau personnel. None of these individuals had any recollection of information within the FBI responsive to that part of plaintiff's FOIA request.

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

Subscribed and sworn to before me this 18th day of December, 1981.

Margaret J. Bartok
Notary Public

My Commission expires 1-1-85.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)	
)	
Plaintiff,)	
)	
v.)	Civil Action Number
)	75-1996
U.S. DEPARTMENT OF JUSTICE,)	
)	
Defendants.)	
_____)	

AFFIDAVIT OF JOHN W. KILTY

I, John W. Kilty, being duly sworn, depose and say as follows:

(1) I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI), Unit Chief, Elemental Analysis Unit, Laboratory Division, FBI Headquarters (FBIHQ), Washington, D.C.

Due to the nature of my official duties I am familiar with all of the duties and responsibilities of the Elemental Analysis Unit and, more specifically, am familiar with neutron activation and spectrographic analysis performed during the investigation into the assassination of Dr. Martin Luther King.

(2) The purpose of the affidavit is to describe the search in the FBI Laboratory for neutron activation and spectrographic materials and the results of that search. This affidavit is supplemented by the fifth affidavit of SA John N. Phillips, filed herewith.

(3) In accordance with the December 1, 1981, order of District Court Judge June L. Green, I repeated the search for neutron activation and spectrographic materials connected with the investigation of the assassination of Dr. King, and which may have been retained in the FBI Laboratory work

B

space. This search conducted by me encompassed all logical and reasonable locations in the Laboratory where this type of material would be maintained. The places searched by me in the Laboratory Division, FBIHQ, were:

(a) three file cabinets located in Room 2B456.

These cabinets contain old material generated through neutron activation analysis and spectrographic tests.

(b) two file cabinets located in Room 3342K, which contain among other things, material generated through neutron activation and spectrographic analyses.

(c) one file cabinet located in Room 3342L, which contains, among other things, materials generated through neutron activation and spectrographic analysis.

(d) The instrument room plate drawer located in Room 3971. This plate drawer is the location where spectrographic plates of current and open cases are kept. Spectrographic plates are stored in the location for approximately one year after their generation.

(e) The plate locker located in Room 3972J. The plate locker is the location where spectrographic plates connected with old cases and cases deemed to have some historical value are kept.

(3) As a result of this search in the FBI Laboratory by me, I was unable to locate any neutron activation or spectrographic analysis materials connected with the investigation of the assassination of Dr. King.

(4) The neutron activation materials generated during the investigation of the assassination of Dr. King were not located by me during this search of the FBI Laboratory since these materials were previously sent by me to the Records Management Division, FBIHQ, for retention in the appropriate MURKIN file(s) maintained by the FBI.

*When?
Why?
The plate
files?*

(5) The spectrographic analysis materials, with the exception of spectrographic plates, generated during the investigation of the assassination of Dr. King are located in the appropriate MURKIN file(s) maintained by Records Management Division, FBIHQ. The only logical explanation for the fact that I did not locate any spectrographic plates in the FBI Laboratory, which were generated during the investigation of the assassination of Dr. King, is that these spectrographic plates were destroyed by the FBI in accordance with the provisions of the memorandum attached hereto as exhibit A.

John W Kilty
JOHN W. KILTY
Special Agent
Federal Bureau of Investigation
Washington, D.C.

Subscribed and sworn to before me this 18th day of December, 1981.

Mary B. Kischer
Notary Public

My commission expires Sept 14, 1982.

TO : Mr. D. J. Parsons

DATE: 2/2/56

FROM : Mr. T. D. Beach

SUBJECT: SPECTROGRAPHIC PLATE FILE

Mr. Tolson
 Mr. Boardman
 Mr. Belmont
 Mr. Ladd
 Mr. Nichols
 Mr. Rosen
 Mr. Tracy
 Mr. Harbo
 Mr. Mohr
 Mr. Winterrowd
 Tele. Room
 Mr. Holloman
 Miss Gandy

The Spectrographic Plate File consists of two separate and distinct collections of spectrographic plates, namely,

- (1) Plates containing the arc and spark spectrum of seventy-five metallic elements. The plates are filed alphabetically in the Spectrographic Unit and are used by the examiners to identify the secondary spectral lines which may be present on a plate of an unknown spectrum.
- (2) Spectrographic plates obtained from analyses of evidence on cases. These plates are maintained in the Spectrographic Unit for six months and then placed in the Laboratory Files where they are held for a period of five years. Five years is the normal period of the Statute of Limitations on most cases. The plates are normally taken to the trial of a case when testimony is required. After being retained for five years the spectrographic plates are destroyed.

Case filed in court by Mr. Parsons as per request of Mr. Beach as to advise Supreme Court of not destroy case with app. p. 1013 case was put up

RECOMMENDATION:

It is recommended that this file be continued in its present form.

62-38539
 WRH:vmk
 (4)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Harold Weisberg,)
)
 Plaintiff,)
)
 v.) Civil Action Number
) 75-1996
 U. S. Department of Justice,)
)
 Defendants.)
 _____)

FIFTH AFFIDAVIT OF JOHN N. PHILLIPS

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

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

Due to the nature of my official duties, I am familiar
with the procedures followed in processing Freedom of Information
Act (FOIA) requests received at FBIHQ. Although I was not initially
involved with plaintiff's FOIA request, I am, however, familiar with
all aspects of this request as it relates to the FBI. The infor-
mation set forth herein is based upon my review of the records and
correspondence with plaintiff as it relates to this litigation,
and upon information provided to me in my official capacity.

(2) The purpose of this affidavit is to supplement the
affidavit of SA John W. Kilty, filed herewith, concerning the search
for neutron activation and spectrographic analysis performed by the
FBI during the investigation of the assassination of Dr. King.

(3) According to FBI procedure, all raw data and work-
sheets, as well as carbon copies of reports prepared by the Laboratory
concerning the investigation of Dr. King's assassination were forwarded
to Records Management Division for maintenance. These records were
then placed in the MURKIN file, FBIHQ number 44-38861, which has

*When
W. King
then
copy
filed*

been processed for release to plaintiff.

file
(4) Material pertaining to the neutron activation analysis is contained in an enclosure to serial 1256 of the above mentioned MURKIN file. Plaintiff received part of this enclosure consisting of nine pages of raw data at a meeting at FBIHQ on March 23, 1976, in which he indicated those pages to be the only material in serial 1256 in which he was interested. During the processing of the Headquarters MURKIN file, plaintiff was furnished additional testing materials and lab reports by letter dated January 10, 1977.

(5) Spectrographic materials including worksheets and reports are located in the Headquarters MURKIN file in the enclosures to serials 6004X and 6007X1. Plaintiff was provided copies of these serials by letter dated June 29, 1977.

(6) In an effort to assist plaintiff in his search for neutron activation and spectrographic analysis in the Headquarters MURKIN file, copies of serials 1256, 6004 and 6007X1 have again been provided to plaintiff by letter dated December 18, 1981.

John N. Phillips

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

Subscribed and sworn to before me this 18th day of December, 1981.

Morothy J. Bartak

Notary Public

My Commission expires 1-1-85.

62-10301

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

Dear Mr. Weisberg:

Reference is made to the December 1, 1981, order of District Judge June L. Green concerning the release of Neutron Activation and Spectrographic analyses.

Enclosed herewith are copies of aerials 1256, 6004X and 6007X1 of sections 10 and 15 of the Headquarters MURKIN file, 44-38861, which were previously released to you by letters dated January 10, and June 29, 1977, respectively.

Material previously deleted from serial 1256 to protect the names of FBI Special Agents under subsection (b) (7) (C) has been restored. These three serials are now being released to you with no excisions.

Sincerely yours,

James K. Hall
James K. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

Enclosures (3)

- 1 - Honorable June L. Green
Judge of the United States District
Court for the District of Columbia
United States Courthouse
3rd Street and Constitution Avenue, N.W.
Washington, D. C. 20001
- 1 - James H. Lesar, Esq.
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209
- 1 - Assistant Attorney General,
Civil Division
Attention: William G. Cole, Esq.
① - Mr. Mintz
Attention: William F. Wolty
cjfitmc (8)

62-10301-9
24-3044
[Handwritten initials]

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

Dear Mr. Weisberg:

In accordance with the December 1, 1961, order of District Court Judge June L. Green, enclosed herewith are copies of Memphis Field Office file 149-121 captioned "Threat to American Airlines and Dr. Martin Luther King, Jr., Memphis, Tennessee, April 1, 1968; DAM", and three internal memoranda from the Savannah Field Office dated August 6, 1968, August 28, 1968 and June 5, 1969.

Deletions have been made in this material pursuant to the following subsections of Title 5, United States Code, Section 552:

- (b) (2) materials related solely to the internal rules and practices of the FBI;
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:

- 1 - Honorable June L. Green
Judge of the United States District
Court of the District of Columbia
3rd Street and Constitution Avenue, N.W.
Washington, D. C. 20001
 - 1 - James H. Lesar, Esq.
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209
 - 1 - Assistant Attorney General
Civil Division
Attention: William G. Cole, Esq.
 - (1) - Mr. Mintz
Attention: William F. Walby
- cjfstmc (8)



Mr. Harold Weisberg

- (c) constitute an unwarranted invasion of the personal privacy of another person;
- (d) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means.

If you desire, you may submit an appeal from any denial contained herein. Appeals should be directed in writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States Department of Justice, Washington, D. C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the Freedom of Information-Privacy Acts (FOIPA) number assigned to your request so that it may be easily identified.

Processing of Memphis Field Office file 100-4205 captioned "Martin Luther King, Jr., Security Matters" has been initiated and will be furnished to you upon its completion.

Sincerely yours,

James E. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

Enclosures (2)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG)
Plaintiff,)
v.) Civil Action No. 75-1996
U.S. DEPARTMENT OF JUSTICE)
Defendant.)

DECLARATION OF ROBERT J. D'AGOSTINO

I, Robert J. D'Agostino, hereby declare and say as follows:

1) I am Deputy Assistant Attorney General for Policy and Planning of the Civil Rights Division (CRD) of the Department of Justice. By Civil Rights Division Memorandum 78-1, appearing at 43 Fed. Reg. 37686, August 24, 1978, and in accordance with 28 C.F.R. 0.50, Appendix J, the authority delegated to the Assistant Attorney General, Civil Rights Division, to grant or deny requests made pursuant to the Freedom of Information Act, was delegated to the Principal Deputy Assistant Attorney General, Civil Rights Division, and in the absence or unavailability of the Principal Deputy Assistant Attorney General, to the Deputy Assistant Attorney General for Policy and Planning.

The matters stated herein are based upon my personal knowledge and upon my review and consideration of information available to me in my official capacity.

2) On December 1, 1981, this court ordered the Civil Rights Division to search for and release the contents of DJ file 41-157-147; review DJ file 144-19-0 for any documents responsive to the plaintiff's FOIA requests;

release the "Memorandum to Attorney General re James Earl Ray Possible Evidence of Conspiracy"; and release the index of documents in CRD files concerning the assassination of Dr. Martin Luther King. This declaration sets forth the CRD action in response to the requirements of the order.

3) I have been informed by the records management personnel in the CRD Files Unit and in the Department's Justice Management Division that DJ file 41-157-147 does not exist; that such a DJ file number is invalid, and that the use or the appearance of the number is erroneous (see the Declaration of Robert M. Yahn). Therefore, search for and release of the contents of a "DJ file 41-157-147" is not possible.

4) We are aware that Mr. Weisberg has copies of several CRD documents upon which the number 41-157-147 appears. These documents are located within DJ file 144-72-662, the CRD file on the assassination of Dr. King. We do not know why the number 41-157-147 appears on the documents or what the number represents.

5) On advice of counsel, the FOI/PA Branch has not retrieved or reviewed DJ file 144-19-0, which contains citizen and official correspondence of a general nature about federal criminal civil rights either to, from, or about persons in the Northern District of the State of Georgia. The Division has been advised by counsel that the plaintiff, has withdrawn his request in so far as it applies to the contents of DJ file 144-19-0.

6) Pursuant to the Order of the court, the FOI/PA Branch has located and prepared for release the "Memorandum to Attorney General re James Earl Ray Possible Evidence of Conspiracy" as described in footnote 222 of the House Select Committee on Assassination's investigation into Dr. King's murder (volume XIII, at page 184). The document, dated September 13, 1968

(nine pages), is being released subject to appropriate deletions pursuant to FOIA exemptions (b)(5) and (b)(7)(c) (see Exhibit A).

7) FOIA exemption 5 has been held to incorporate privileges applicable to the civil discovery context, including the deliberative process privilege and the attorney work product privilege. The portions being withheld from the attached document pursuant to exemption 5 are properly protected from disclosure because they reflect the deliberative process in agency decisionmaking and constitute attorney work product. The document involved was produced in preparation for the possible prosecution of James Earl Ray. The excised information is of a predecisional, advisory and deliberative nature, reflecting the opinions and recommendations of a government official in the course of the decisionmaking process within the Executive Branch. To disclose such information would reveal frank communications between personnel of the Department of Justice discussing various litigative issues and strategies, thus jeopardizing the candid and comprehensive consideration necessary for the agency decisions to be made in such matters. All of the withheld material is also attorney work-product since it was generated by an Assistant Attorney General in reasonable anticipation of litigation. The documents include his private thoughts, recommended tactics, factual and legal analysis and evidence appraisals.

8) FOIA exemption 7(c) protects the personal privacy of individuals from unwarranted invasion due to the release of information contained in records compiled for law enforcement purposes. The names of citizens whose identity is not known to the public have been withheld from the attached document pursuant to exemption 7(c) in order to prevent the unwarranted invasion of their personal privacy.

9) Pursuant to the order of this court, the Civil Rights Division has begun the process of reviewing the index of documents in the Division's files which pertain to the assassination of Dr. King and related matters which was compiled by the FOI/PA Branch staff in 1977 in preparation for this litigation. The index consists of 382 pages. Most of the documents indexed originated with the Federal Bureau of Investigation (FBI). Others originated with the Criminal Division, the Community Relations Service, the Office of the Attorney General, the Office of Legal Counsel, the U.S. Marshal's Service, the Executive Office for United States Attorneys and the Civil Rights Division. In addition, some documents originated outside of the Department of Justice - in the Departments of State and Defense.

10) Department of Justice FOIA regulations (28 C.F.R. 16.4(a)) provide that each component of the Department must be permitted to make its own FOIA release determinations with regard to information originating in that component. Therefore, the Civil Rights Division is obligated to refer the index to the nine components listed in paragraph nine, supra before releasing the information in the index. In addition, it is our practice to consult with other Federal agencies prior to releasing information which they have provided.


11) The Civil Rights Division has already referred the index to the FBI for its review. The FBI has advised that due to the volume of the material referred, the FBI's review process will take at least ninety days.

12) The Civil Rights Division will process the balance of the material after consultation with the eight components and two agencies whose information appears in the index. To ensure that the maximum possible information is disclosed to the plaintiff without jeopardizing legitimately protected interests (e.g. the personal privacy of private citizens)

the FOI/PA Branch staff must also review the prior releases by this Division and the FBI to the plaintiff in this action

13) I am informed by the FOI/PA Branch staff that many of the indexed records are not responsive to the plaintiff's FOIA request.

I declare under penalty of perjury that all of the above is true and correct to the best of my knowledge.


Robert J. D'Agostino
Deputy Assistant Attorney
General for Policy and Planning
Civil Rights Division
U.S. Department of Justice
Washington, DC 20530

Executed on December 21, 1981.

270

SEP 13 1968

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: James Earl Ray -
Possible Evidence of Conspiracy

FBI to Mr
Winters from

Not the
only
proof

The FBI has reported that William Bradford Huie, a journalist and writer residing in Hartselle, Alabama, has exhibited to a ^{B7C} certain letters or notes which he has received from Arthur Hanes, counsel for James Earl Ray. According to ^{B7C}, the documents are in Ray's handwriting. Huie advised that he was given these papers in exchange for his underwriting of Ray's defense. He told ^{B7C} that the notes recounted, among other things, the plans made for the murder of Dr. King. According to his story, Ray was approached in Illinois and asked to commit the murder in exchange for a specified sum. The plans included flight by Ray to Mexico and/or Canada after the shooting - which, according to this version, Ray did not actually commit. Huie also stated that the material he had gathered would be used as the basis for an article to appear in the November issue of Look magazine. ^{B7C} were told that they would receive a copy of the proofs of this article on September 10.

In addition, newspapers and newsmagazines have, during this past week, reported that Huie has announced that he has paid a substantial sum of money - possibly \$25,000 - for Ray's "life story" in the form of a handwritten narrative that Ray has been writing since he returned to the United States. See Attachments A (Time magazine, issue dated September 13, 1968) and B (Washington Post, September 12, 1968).

If such letters are actually in Huie's possession, they constitute evidence of at least two violations of federal criminal law: (1) a conspiracy to violate Dr. King's civil rights (18 U.S.C. 241) - the offense which was the basis for the issuance of a federal arrest warrant for Ray, and (2) a conspiracy to violate the Fugitive Felon Act (18 U.S.C. 371, 1073) - established by the details on how Ray was to travel to Mexico and/or Canada after the commission of the murder.

144-72-662
file
AN

EXHIBIT A

As a result of Warden v. Hayden, 387 U.S. 294 (1967), and Section 1401 of the Omnibus Crime Control and Safe Streets Act of 1968, 42 Stat. 197, a federal warrant may now be obtained "to search for and seize any property that constitutes evidence of a criminal offense in violation of the laws of the United States." The notes and letters in Mule's possession are such evidence because they amount to voluntary written declarations by a principal participant in an illegal conspiracy admitting his guilt. The FBI would like to be given authority to obtain a search warrant for these documents in order to seize them.

B 5

1. In my view,

B 5

B 5

B 5

2. A somewhat less difficult problem.

B 5

B5

3.1

B5 + B7C

B5 + B7C

4.)

B5

B 5

5.

B 5 + B 7c

B5

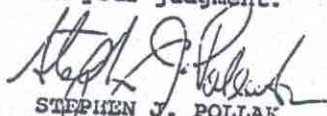
6.

B5

7. On balance, my recommendation is that we go forward with a search warrant under tight, specifically defined procedures like those outlined above.

B 5

I am sending a copy of this memorandum to Fred Vinson and suggest that he and I discuss the matter with you at a brief meeting to obtain your judgment.


STEPHEN J. POLLAK
Assistant Attorney General
Civil Rights Division

Since the above memorandum was prepared, I received the attached memorandum from the FBI Director. It reports that the Bureau has interviewed Mr. Huie, at his request, and that Huie is willing to divulge the information he has received to date, provided the Bureau will give him some current, unpublicized photographs of Ray.

B 5

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG)
Plaintiff,)
v.) Civil Action No. 75-1996
U.S. DEPARTMENT OF JUSTICE)
Defendant.)
_____)

DECLARATION OF ROBERT M. YAHN

I, Robert M. Yahn, hereby declare and say as follows:

1) I am the Chief of the Records Maintenance and Disposition Section, Records Management Group, Records and Publication Staff, Office of Personnel and Administration, Justice Management Division, U.S. Department of Justice. I am responsible for the Departmental ("DJ") mail and document classification and filing system, of the Offices, Boards and Divisions, including the Civil Rights Division, of the U.S. Department of Justice. I have been employed by the Department of Justice since July 1970 and have been responsible for the Departmental records management policy since July 1973.

The facts stated in this declaration are based upon my personal knowledge and upon information obtained by me in my official capacity.

2) The records management policy of the DJ classification and filing system is contained in Chapter 3 of OBD Order 2710.3A, Files Maintenance and Records

Disposition, dated December 9, 1980, and in a series of nine mail classification manuals utilized by my office and the personnel of the six legal divisions, including the Civil Rights Division. The policy set forth in the Order and manuals stipulates how documents shall be indexed and filed based upon the DJ file numbering system.

3) Department of Justice specific case and matter files are indexed, stored and retrieved by use of a three element numbering code, known as DJ File Number. These numbers are assigned to each document concerning a specific matter or case. Each number is unique and refers to a separate case or matter. DJ 144-72-662, which is the unique number assigned to the Civil Rights Division files on the assassination of Martin Luther King, is an example of this type of DJ file number. All documents including citizen correspondence, pertaining to the King assassination are assigned this number and placed in this file.

4) The first element, or primary number, of all DJ file numbers, whether general or specific, indicates the subject matter of the file or violation involved (e.g. 41 = explosives). The DJ primary numbers assigned for use by the Civil Rights Division are 50 (18 U.S.C. 1581, 1584), 144 (18 U.S.C. 241, 242, 245), 166(voting) 167 (public accommodations), 168 (public facilities), 169 (education), 170 (employment), 171 (federally assisted programs), 173 (jury discrimination), 174 (military voting discrimination), and 175 (fair housing). The remaining DJ primary numbers are assigned to other Divisions of the Department of Justice. The DJ primary number "41" is assigned to the Criminal Division to identify violations relating to the manufacture, storage and use of explosives as well as bombing and bomb threats, prosecuted under 18 U.S.C. and 46 U.S.C. The DJ primary number "41" is not used by the Civil Rights Division.

5) The second element, or secondary number, used with the primary DJ number 41 indicates the judicial district or geographical area covered by the file. The highest number currently listed is 103. The number "157" is not assigned as the identifying number for any geographical area.

6) The third element or number indicates the specific case or matter involved. Therefore, each case or matter of a specific nature within a given judicial district has its own number. For example, DJ 144-72-662 (the King assassination file) is the six hundred, sixty second federal criminal civil rights violation investigated in the Western District of Tennessee for which a separate file was established by the Civil Rights Division.

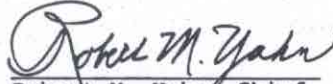
7) On December 9, 1981, I spoke by telephone with Ms. Nancy Bell, supervisor of the mail classification unit of the Criminal Division. Ms. Bell advised me that the Criminal Division does not utilize the secondary number "157" to identify any of its mail or files.

8) On December 9, 1981, I spoke by telephone with Ms. Clara Glock of the Records Management Section of the Federal Bureau of Investigation (FBI). The FBI employs a mail and file classification system similar in many respects to the DJ file number system. Ms. Glock advised me that the FBI utilizes the primary number "41" with regard to explosives and that the FBI does not use the secondary number "157".

9) I know of no other component of the Department of Justice, other than the Criminal Division and the FBI, that uses a three element numbering system with a primary number of "41".

10) I have determined that there is no Department of Justice file with the number 41-157-147. Furthermore, I have determined that the number 41-157-147 could not be a valid DJ file number. For these reasons, any use or appearance of this number is erroneous.

I declare under penalty of perjury that all of the above is true and correct to the best of my knowledge.



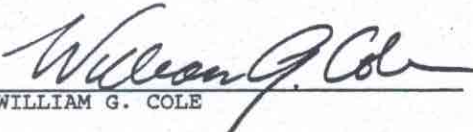
Robert M. Yahn, Chief
Records Maintenance and
Disposition Section
Records Management Group
Records and Publication Staff
Justice Management Division

Executed on December 21, 1981.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December, 1981, I served the foregoing NOTICE OF FILING, MOTION FOR EXTENSION OF TIME WITHIN WHICH TO COMPLY WITH DECEMBER 1, 1981 ORDER and proposed ORDER GRANTING EXTENSION OF TIME upon counsel, by mail, postage prepaid to:

Mr. James H. Lesar
1000 Wilson Boulevard
Suite 900
Arlington, Virginia 22209


WILLIAM G. COLE