August 20, 1970

Honorable John N. Mitchell
Attorney General of the United States
Washington, D. C.

Dear Mr. Mitchell:

Were I to swear falsely under oath or to deceive, misrepresent and attempt to misinform or mislead a judge in federal court, your department could and would prosecute me. Are these things no less reprehensible, is perjury no less a crime, when committed by attorneys for your department?

On three different occasions, your department has filed motions claiming Civil Action No. 718-70 is moot because, in the words of the most-recent one, filed last Friday in response to an order issued by Chief Judge Edward M. Curran of the Federal District Court for the District of Columbia, "plaintiff has been given access to the papers requested in this public information suit and therefore this case is moot". Now, under this law, I am entitled to and asked and paid for copies of items in this file which, as of this writing, despite the direct order of Judge Curran, have not been given me. Nor does such a case become moot on the mere promise of the showing of documents to a plaintiff.

Appended to this motion were several documents. One is the affidavit of your attorney, David J. Anderson. Paragraph 2 concludes with reference to your May 6, 1970, letter, "A true copy of this letter is attached hereto and is Exhibit 1 and made part hereof."

Exhibit 1 is not a "true copy". It is an edited copy, the editing being accomplished by masking that is visible in the copying. Is not the Chief Judge of the Federal District Court for the District of Columbia entitled to the intelligence removed from your copy of this letter, especially when, under oath, it is described to him as "a true copy"? If this alteration has been performed on all departmental copies of this letter, I will be happy to supply what has been removed. (Exhibit 3, also described as "a true copy", is edited in the same fashion.)

Paragraph 4 is designed to misrepresent and to deceive. It states that I did two things for the first time in a letter of June 2, "wrote to an official of the Department requesting notification that he (I) had been given access to all the papers involved in this action and further requested to see the file cover in which the documents had been kept".

I did not, then or ever, just "request" to "see" this file cover.

What that letter actually said is that I had earlier supplied your department with a list of the papers from that file I had requested and paid for and had not been given. The unnamed official is the assistant to the Deputy Attorney General, who is the official who had delivered the copies to me and to whom I had given payment. That paragraph actually reads,

> On checking these papers against the list, I find the first and last items missing. The first is the file cover, the last a simple letter informing me that, in fact, I have been given access to the entire file that is the subject of this action.

This deliberate misrepresentation was also made by Mr. Anderson, to Judge Curran, on August 12, when Mr. Anderson represented these as new and additional requests made by me, whereas they are the initial requests, delivered in writing when I examined the file, in May, to Deputy Assistant Attorney General Carl Eardley. Despite his and other subsequent false representations, Mr. Eardley, then and there, in the presence of my attorney, told me he would deny me these two items, which is quite contrary to the misrepresentation in this affidavit, the motion of which it is part, and to his own letters, which, to his knowledge, contain such gross falsehoods they cannot be accidental and, in fact, are independently established as falsehoods by other of his letters alone.

Paragraph 7 begins, "On August 11, 1970, affiant advised plaintiff's attorney that a copy of said file cover had been located and would be supplied to plaintiff." It is a misrepresentation and a deception to allege that no such file cover or copy of such file cover had been "located" earlier. Plaintiff placed the file cover itself in the hands of Carl Eardley when returning the file to him. Prior to August 11, 1970, the department had cut off most of a Xerox of this identical file cover, taped the remains together with Scotch tape, and sent it to me, misrepresented as the entire thing. Repeatedly, the department made other attempts to deceive the Court and me about this file cover, including representation that it does not exist.

The remainder of paragraph 7 is, in my opinion, openly perjurious and intended to deceive the Court, which had just ordered that what it falsely alleges was done be done. Had it been done, it is obvious Mr. Anderson would have informed Judge Curran that it had been done. This sentence reads, "A copy of said file cover was delivered to plaintiff on August 12, 1970."

I note the one truthful thing in this sentence, its failure to describe <u>that</u> copy as a "true" copy, for it was not.

It was <u>not</u> delivered to me. It was shown to me and was taken with him by Mr. Anderson. He did not dare "deliver" it, nor did he dare give it to the judge to give me, for he knew it was an unfaithful copy, the unfaithfulness being of a non-accidental character, given the character of the Xeroxing process, resulting in one of the entries being rendered entirely illegible.

The perjurious nature of this affidavit is further disclosed by Carl Eardley's letter of August 17, 1970, which is subsequent to the date of the alleged August 11 "delivery" and to that of the August 14 affidavit. This letter, which is otherwise false in its own right, in an effort to disguise this perjury, begins, "Pursuant to your discussion with David J. Anderson of this office, we are forwarding copies of the file cover which you requested." Had this letter been written under oath, it also would have been perjurious, for on what is directly involved and is most material it is false. It states, "You will recall that the blurred portions were also blurred on the original." The blurred portion, as the most casual examination will disclose, is not blurred on the original.

If not perjurious, Paragraph 8 is clearly designed to misrepresent and to deceive the Court. It begins, "In the August 11 conversation between affiant and plaintiff's attorney, the latter indicated that plaintiff desired a copy of one of the photographs which were among the documents referred to in paragraphs 2 and 3 above." It was not in this alleged conversation of August 11 but in the written request I made in May that this photograph was requested. At that time I requested other photographs also. When I was, two weeks later, informed that the supplying of these photographs would require an additional three weeks, I reduced this request for photographs to the single one. This is amply recorded in correspondence not supplied to the court by you and is reflected in the list of those things of which I requested copies.

Here again the misrepresentation was also perpetrated in court, to the judge's face, when Mr. Anderson told him that this request and that for the cover of the file were made later by me.

The intent to deceive never ended. Here are more examples:

In Mr. Eardley's June 26 letter, he says of this file cover, the very one I personally showed him in his secretary's office, the very one he then said he would not copy and provide, "... the papers examined by Mr. Weisberg were contained in a plain unmarked file folder. We are therefore unaware of what file folder Mr. Weisberg has in mind."

But under date of July 30, Mr. Eardley wrote, "I am enclosing a copy of the only accordian file cover which we have been able to locate ...", the one he held in his hand in May.

Paragraph 5 does not accurately reflect Mr. Eardley's letter of June 26, 1970, to which it refers as "advising him (meaning my attorney) that plaintiff had been given access to all documents which were the subject of this action". What that letter actually says is less, only what, with this history of deception, deliberate falsehood and misrepresentation, is unacceptable. Mr. Eardley wrote, "I have been assured by individuals in this department who have examined our file on James Earl Ray that Mr. Weisberg has been given access to all the papers which he requested in his complaint."

What I requested is precisely what Mr. Eardley had told me would not be provided and was not provided, in response to my written May request or Judge Curran's August 12 order. In May, I also asked Mr. Eardley that, since he had no personal knowledge, this letter be written by whichever person has custoy of the file in question. Reference by Mr. Eardley to "file" in the singular when the department has more than a single file (although it began by denying it had any), especially with the history of inaccuracy that taints every communication, particularly those of Mr. Eardley himself, the "assurance" of his June 26 letter is, at best, meaningless. My dissatisfaction is not diminished by its evasiveness nor by his earlier statement that this proper request would be refused.

Moreover, I believe your department is in contempt of court. On August 12, Judge Curran ordered that what had been withheld from me be delivered within one week. With respect to the photograph, the copying of which the judge said would take but minutes, Mr. Anderson told the judge it had just been given Mr. Anderson the previous afternoon by the Deputy Attorney General. Not only was it and the true and legible copy of the file cover not delivered to me within this time, but the intent to be in contempt is amply and openly recorded in the conclusion of Mr. Eardley's letter of August 17:

> We have delivered the photograph which Mr. Weisburg (sic) requested to the Deputy Attorney General's office to have it reproduced. It will be forwarded to you shortly.

Thus, it is clear that the department is unconcerned by the order of Judge Curran, which was that this be accomplished promptly, in any event, within one week. The shuffling of the photograph is but another devide to stall. The letter was not delivered until after one week had passed.

In addition, if this language is otherwise accurate, it represents less than I asked for and am entitled to. If the Department is going to make a copy of whatever version of this photograph it elects, and there are several different copies in this one file alone, it will be making a copy that, whether or not by intent, will be less clear than possible. The department has the negative from which this photograph was printed. The needless making of a negative from the print will reduce clarity. I would prefer and I expected that the print I paid for be made directly from the original negative, which the department has and which is normal.

Now, were I in contempt, your department would take action against me and I would be punished. How one punishes a government department I do not know. I do know that punishment can be administered to individuals, for contempt as for perjury. I believe it is no less than proper to ask and expect that the Department of Justice see to it that justice is done, that those guilty of perjury and contempt, even if its employees, be treated like all other citizens and also be punished. If this is not done, is there "equal justice under law"? Is there to be impunity for crime by the department and its officials?

"Law and order", like charity, should begin at home.

Your department has violated the law for a year and a half, by whatever expedient appealed to it, beginning with the ignoring of my proper requests, followed by the most blatant lies, now culminating in open contempt of a judge and his order. One of the consequences has been to put me to considerable cost, in actual out-of-pocket expenses, in wasted time, and in the delaying of my writing. Aside from frustrating the law, which I believe cannot be other than purposeful, these things are and were intended. They are improper and wrong. I believe the government should hold itself to account for these measurable damages.

This suit was caused by these wrongful things by your department. So you can better understand, Mr. Richard Kleindienst caused it initially by false statements and misrepresentations, first, that you had no such papers when you, in fact, had duplicate sets; then by insisting these were required to be withheld, under the misquoted law. Next, you, personally, failed to respond to the prescribed appeal, which I had already delayed in order to give Mr. Kleindienst a chance to reconsider the inconceivable things he had committed to paper. Long after this appeal was moot, you ruled that I would be given access to what the law requires be made available to me. After you so ruled, your department stalled by one self-demeaning device after another, and ultimately still denied me three parts of my request.

My unnecessary travels to Washington required by these acts total not less than about 1800 miles of driving and about $55.00 in parking charges. Aside from the time required by so much unnecessary letter writing, I estimate that not fewer than 18 days were so wasted for me. I think it only fair that you return these costs to me, mileage at the going departmental rate and the days at the rates prevailing on the Washington Post for one of my experience. Determination of the damage by delaying my book is of a more subjective nature. To this I believe it is only fair that reasonable counsel fees be added.

The law under which this action is brought has no provision for the repayment of damages. Others, I have no doubt, do. Rather than consider invoking them at this point, I suggest to you that a proper gesture and a means of beginning to restore integrity to your department in this matter would be seeing to it that these damages are alleviated.

Yours truly,

Harold Weisberg