DECLARATION OF HAROLD WEISBERG

My name is Harold Weisberg I reside at 7627 Old Receiver Road, Frederick, Maryland, 21702. I am a former reporter, investigative reporter, Senate investigator and editor and I was an intelligence analyst in World Wr II, in the Office of Strategic Services (OSS). I am a writer. I have published six books on the assassination of President John F. Kennedy and one on that of Dr. Martin Luther King, Jr.

1. I filed about a dozen Freedom of Information Act (FOIA) law suits as a result of which I obtained about a third of a million pages of once-withheld records, mostly those of the Federal Bureau of Investigation (FBI).

2. The FBI was able to stonewall and protract several of those suits for a decade One of the means of protracting litigaton, which makes it costly to all parties and imposes, I believe, upon the busy courts, is by, in my experience, misrepresentations of fact.

3. These misrepresentations included refusing to make searches on the ground that the records sought did not exist or could not be located, ticklers in particular.

4. When I was able to pinpoint where one particular withheld FBIHQ tickler did exist, the Department appeals office located what remained of it precisely where I said it was It was known as the "Long" tickler, so named for the FBI supervisor who was later promoted to assistant director. Previously the FBI told that court, first, that there was no "Long" tickler. Then, when by its own records I proved it did exist, it told the court it could not be located after search.

5. The Long tickler is one compiled and used relating to the FBI's investigation of the King assassination. Before I obtained it, which took a

considerable amount of time, effort and cost, the FBI made its usual boiler-plated claim that ticklers contain nothing not in the main case file. After the Long tickler had been thoroughly gutted and it was disclosed to me, it held significant information that was not included in that main case file. This information included notations of information significant to the FBI as well as notations in which I saw significance that was not of interest to the FBI.

6. Among the records included in the Long tickler that were not in the 44 classification main case file were 91 classification records. This is the classification it uses for bank robberies. Thus I learned that the FBI has me filed under bank robbery in at least six files in its headquarters and in at least three of its field offices. From my knowledge of FBI procedures, it is obvious to me that I am thus filed in other of its field offices. Yet when I made a separate request of all its field offices for records on or relating to me, as I now recall only one admitted having any of these 91 bank robbery files that do include information on me.

7. It was commonplace in my experience for the FBI to deny having records its own records proved it had, including on or about but not limited to records on me, as well as ticklers it certainly did have and later disclosed in large volume.

8. The Long tickler held information that could have been embarrassing to the FBI. This information included the certainty that it had tapped the phone used by Jerry Ray, brother of the accused King assassin, James Earl Ray. The very bank robbery files held information that could have come only from a phone tap. This information was from the very first contact Jerry Ray made with me and that was by phone only.

9. The FBI had requested the attorney general's permission to tap all Ray-family phones. In arguing its case of need, the FBI stated frankly that in this it would be violating the rights of the Rays and would probably lose a

lawsuit for damages. It even admitted that this might result in the inability to prosecute the alleged assassin it then sought. But it also argued that if these costs had to be paid, they would have been justified by the possibility - not even a certainty - of apprehending the alleged assassin.

10. The items of that litigated request (C.A. 75-1996, federal district court for the District of Columbia) included all records relating to all surveillance, including phone, on a number of people, including me and Jerry Ray. The FBI informed that court that it had no such records prior to my compelling production of what remained of the gutted Long tickler. It then produced not a single additional page.

11. Two of my JFK assassination FOIA cases were for all relevant records of the Dallas (C.A. 78-0322) and New Orleans (C.A. 78-0420) field offices, later combined.

12. In both cases the FBI insisted that neither office had any such ticklers. Yet from my fairly extensive knowledge of FBI practices and procedures as well as from the knowledge of them I obtained from study of the great volume of records I did receive, it is beyond question that at the very least the case agents in each field office had and preserved large ticklers. Indeed, some of the disclosed records of both offices reflected copies designed to ticklers.

13. In the New Orleans case, then District Attorney Jim Garrison was of great interest to the FBI, as was the late Clay Shaw, whom Garrison charged with conspiring to kill the President. Such information is separate items of that FOIA request. It is beyond question that New Orleans had files and ticklers on both that it denied having. With regard to Garrison, this is established by handwritten notations added to disclosed records. With regard to Shaw, this is established by an FBIHQ record disclosed separately to me that holds information from the New Orleans field office files that one of its symbol

informants admitted to having had homosexual relations with Shaw and his statement that Shaw was sado-masochist.

14. The FBI special agent (SA) supervisor in these combined cases was SA John H. Phillips.

14. With regard to ticklers, he attested first that they were never kept longer than six months. He so attested and persisted in stating this even after I informed that court that the FBI had disclosed ticklers to me then more than a decade and a half old. Phillips then attested that the FBI's only ticklers were three by five card files that were soon discarded, even though before then the FBI had disclosed large ticklers consisting of many records, not all from the main case files, and information significiant to me in the form of handwritten notations. This included but was not limited to notations on copies of main file documents that did not hold those notations.

16. Phillips' denials of the existence of relevant ticklers never ended. Yet it is beyond question that for their efficient operation and as a means of ready access to important information, the case agents at the least required a tickler or ticklers. In my experience this is particularly true in cases that are of political character, as both the Kennedy and King assassinations were and are.

17. The first Dallas case agent was SA Robert P. Gemberling, A number of disclosed records have notations indicating a copy for ticklers. Gemberling was replaced when he retired by other special agents whose names and functions were made public by the FBI but whose names were obliterated in the disclosed records. When I provided this information the FBI just ignored it and persisted in the withholding. When I requested that it ask Gemberling, who had been rehired on a part-time basis because of his unique knowledge, whether he had had a tickler and what happened to it, the FBI refused and did not do that with him or with any of his successors as case agent.

18. In FBI Headquarters records disclosed to me there are records in which permission to destroy ticklers is requested. This leads me to believe that at least in cases of political nature, ticklers are not destroyed without authority. By FBI practice the requests and responses should still exist.

19. That the FBI as a matter of practice preserves records of no continuing significance was established in the recent past by its disclosure of all sorts of records relating to "Click" magazine. When I was its Washington correspondent before Pearl Harbor, it was the third largest picture magazine. This information is more than 50 years old but still in FBI files it had earlier refused to search in response to my requests.

Yet "Click," which was profitable without an advertising staff, was folded when paper was scarce during World War II so the owners could use that paper for a new and successful magazine of special appeal to advertisers.

20. When the FBI has information it does not want to disclose, it has a number of means of hiding it, including by how it is filed, if it is filed, or by keeping it in other than the regular filing system and file cabinets. To my knowledge it uses storage cabinets for some such information or it files it under file classifications it claims are not relevant and thus are not searched.

21. An example from FBIHQ practices is File Classification 94, "Research Matters." In practice, from records I obtained after the FBI refused to disclose records of this classification, 94 files include records of the FBI leaking, propaganda, lobbying, and a simply enormous amount of information on all elements of the media, corporate and individual, among a number of other kinds of information that is not "research matters," like the director's correspondence and communications to and from the FBI.

22. A field office example is File Classification 80, "Laboratory Research Matters." The field office has no need for this file classification for that

information which it files in the relevant main case files. It uses that classification for all sorts of information similar to the headquarters use of the 94 classification and also for its relations with and information on local authorities, from its own records disclosed to me under court compulsion.

23. To my knowledge, when the FBI does destroy records it sometimes has duplicate copies in other files and refuses to search them. There is a relationship between what it files as "97. Registration Act," a "Security-Related Classification," and "2. Neutrality Matters," to which the FBI's classification list ascribes the same security description. Specifically, in the case of the late David Ferrie, also charged as a JFK assassination conspirator by Garrison, the FBI alleged that it had destroyed its 97 information on Ferrie. But it refused to search for and provide what it had filed as a "2. Neutrality Matter." That it had such information and refused to search for and disclose it is established by my having a copy of a neutrality-matters record on Ferrie that it had leaked.

24. From FBI records it disclosed to me, at least through the J. Edgar Hoover directorship, it had an often adversarial relationship with the CIA, as from personal knowledge I know it also did with the OSS. I therefore believe it would avoid destroying any records relating to either agency because, again of personal knowledge, it leaks such information. One illustration of this is its leaking to the White House of information that led President Lyndon B. Johnson to believe with regard to the assassination of President Kennedy "that the CIA had something to do with that plot." (62-109960-5075) No copy of this record was designated for any CIA file but one was for the file on Jack Ruby, the man who killed the accused assassin, Lee Harvey Oswald. No copy was indicated for the file from which the FBI leaked that information, either. From FBI practice of which I have knowledge, it can still retrieve this information relating to the CIA without this record being in any CIA files.

I declare under the penalties of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

Harold Weisberg

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