

## HAROLD WEISBERG

7627 Old Receiver Rd.  
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Dear Mr. Cochran,

7/26/95

I write on the chance I may be able to be of help to you in the case you reportedly have of a Black Panther who was framed by the FBI. I'm not able to travel much with safety so I've not been able to get to a Martindale-Hubbell to get your address. I'm 82, in impaired health, and rather limited, so please excuse my typing.

What impels me to write now and to ask a Los Angeles friend to get your address and remail this to you is yesterday's testimony by SA Hartz. Have I had <sup>that</sup> experience with <sup>that</sup> perjury-loving FBI lab agents! I enclose not only an unusual endorsement but what you may find to be the most unusual (and successful!) defense against <sup>FBI</sup> perjury.

That lawsuit was the first filed under the Freedom of Information Act after its 1974 amending. It was Edward Kennedy who saw to it that the legislative history is clear on this. The investigatory files exemption was amended back to its original intent over one of my earliest of at least a dozen FOIA lawsuits. Judge-shopping and lying its head off the FBI had the Act rewritten in courts.

In an effort to cope with endless perjury and not a little suborning of it I decided that rather than rely on lawyer's pleadings I would make myself subject to perjury if I <sup>lied</sup> ~~lied~~ attributing it to the FBI. As I did at least a dozen times, under oath myself and never charged. In the end I got about a quarter of a million pages on the JFK assassination and, with those I got on the King assassination, about a third of a million in all - and I got them without charge!

They have trouble handling someone not afraid of <sup>them</sup> ~~that~~ and laying it on them. It worked well for me.

When I saw and heard some of the Hartz cross-examination yesterday I was reminded of a part of Sanford Ungar's ~~FBI-assisted~~ book of 1975, enclosed, and how true I found what he says to be when I deposed four of those lab agents. What I got from them is worthwhile for the record for history but it meant nothing before a sycophantic judge and the Reaganized appeals court. They are trained to confound defense lawyers, their training adapted to their personalities so it appears more natural.

I was further reminded of that case when I saw Hartz, with a straight face, testify that he destroyed the records of his test to save space. In my lawsuit, not under oath but with twice-removed hearsay the FBI explained its destruction of what was strictly prohibited by saying it alone of more than a dozen of those things was destroyed to save space. The space saved <sup>with</sup> the thickness of a piece of film, the film made by the ~~film~~ flame in spectrographic examination! Not by coincidence that destruction ended the proof that the FBI had lied in the JFK assassination testimony. (I go into that a bit in my current book NEVER AGAIN! The publisher in his wisdom in

addition to omitting the index also omitted the subtitle from the cover. It is The Government Conspiracy in the JFK Assassination. The appendix was omitted but I have the documents and I've had not a peep in the more than two months the book has been on sale.

So you can understand this one of a multitude of illustrations of what the FBI is capable of, that spectrographic examination was supposedly of the curve on a curb-stone struck during the assassination. The curb was pagthred, the FBI knew it, it dug it up and took it to Washington where the Lab went through the farce of examination and then lied to the Commission about the alleged results.

And then saved face by destroying the film to "save space." *Like Nutcracker!*

In the records I got relating to the King assassination were two headquarters and Memphis filed office files on the sanitation-workers strike in support of which Dr. King was there and an informal group of young Memphis blacks who took the name of a then popular TV program, "The Invaders." In those records I learned a little about the FBI's filing to frustrate search, what the file numbering means, where they distributed copies of domestic spying on blacks and their interests and other such things. I believe that if in the Black Panther case you seek FBI information I may be able to help you or any assistant you may have working on that case. I also learned in other cases and from other files what may be relevant and of possible use.

If that was a San Francisco case and there was prejudicial leaking there or at HQ I can tell you where the records of it, if hidden, can be hidden. And ingored on search. The same is true of its electronic surveillances. In his Pulitzer book Dave Garrow ~~was~~ was able to get the still-existing electronic surveillances because of what I showed him about their existence and where and how they were hidden. If you are familiar with that book, the Levison records in particular.

If I can be of use and if you or one of your people phones, in order to cope with several medical problems I must be abed by six p.m. out time. I've been up today since slightly after midnight and can't help that.

If you have an associate in the Washington or Baltimore area, we are about an hour away, perhaps a little more, depending on where they are.

Your LAPD did a little "space-saving" in the Robert Kennedy case. After getting together with the chief and case judges and explaining how they were going to preserve the very evidence they destroyed. I have the transcript, used part of it in my 1975 book Post Mortem, there was no defense lawyer present, and again not a peep of complaint.

Without any question at all, the FBI framed Oswald, I have published enough of the proof from its own records. I believe I could now walk Kay, whose investigator I was in getting him an evidentiary hearing and for that hearing but I have no association with his present counsel and want none. Another frame, believe, me, and I've the proof in its own records. If these seems extreme and you want references, please ask.

Good luck! Harold Weisberg

*Harold Weisberg*

Sanford J. Ungar

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# FBI

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FBI HEADQUARTERS: THE "SEAT OF GOVERNMENT"

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rs in the field and reau career. Once urred to it in 1964 ents." He is proud

of the records over which he has custody and points with amusement to some of their eccentricities, like the fact that there are "several drawers of John Smiths." Marshall is appropriately discreet, however, about the nature of the "special" indices that contain the names of everyone whose voice was ever picked up in an electronic surveillance by the Bureau or who is of "security" interest to the agency.

The first of the files to be computerized were the Bureau's personnel records; with a punch of the appropriate buttons, the computer will within seconds search and display on a cathode-ray-tube monitor the biographical details and a short career summary of anyone who has ever worked for the FBI. It is conceivable that one day all of the Bureau's vast files will be stored in the computer and available for instantaneous consultation on a monitor in every field office. Work is already underway on automating the master index, so that all the regional offices will be able to search a name from a distance, eliminating unnecessary written and telephone communications between Washington and the field.

The Files and Communications Division also supervises and maintains the FBI's secure teletype system, in which all confidential Bureau messages and other traffic is automatically encrypted before it moves over the line between cities. Thus FBI communications are scrambled and theoretically immune from "hostile interception." "We have to assume that attempts would be made" to intercept the traffic, says Marshall; "it's safe to say that all countries are interested in what other countries are doing." To keep all of its wheels turning, the division employs thirteen hundred people.

Only about four hundred and fifty people (fewer than two hundred of them agents) work in the FBI Laboratory, but it too performs specialized services unique to FBI headquarters. Housed for years in musty quarters on the top floor of the Justice Department building, the lab made pioneering tests on bullets, blood, paints, and other substances that held the key to cracking difficult and dramatic criminal cases. But its tasks expanded, as the Bureau grew, to include the examination of such items as secret inks and microdots in wartime and sophisticated analyses of fibers or mysterious particles that turn up in everything from sabotage investigations to routine criminal cases. Among other things, the Laboratory Division now translates foreign documents of "security" value to the FBI, studies voiceprints of people overheard on wiretaps, and compares the bank robbery notes passed to tellers to detect similarities of handwriting and technique. In recent years it has purchased intricate and delicate equipment such as a scanning electron microscope, which took nearly a year to set up and then was of

### THREE DIFFERENT WORLDS

uncertain relevance to the requirements of the lab and beyond the skills of many of its technicians.

Some 75 percent of the lab's work is in Bureau-related cases, including complicated civil suits to which the federal government is a party; but it also provides its services to state and local law enforcement agencies. The agents from the lab who testify in court are permitted to do so only after a rigorous training program, which includes "moot court" rehearsals to prepare them for the tactics of eloquent and experienced defense attorneys and graduate study of forensic science. Once they are experienced, the agents may spend most of their time touring the nation, providing precise and conclusive testimony for the prosecution that impresses juries and sends men and women off to jail. Some agents have appeared in hundreds of cases. "Many defense attorneys will often stipulate to vital information, when they learn that someone from the FBI Lab is about to testify," says Briggs J. White, assistant director for the laboratory; "that is because it has been established throughout the country that we give completely objective testimony and we send out very well qualified people." White, who holds a doctorate in chemistry from the University of Colorado, has been in the FBI Lab since 1940, when he joined as a "junior analytical chemist"; he became an agent a year and a half later, but never served in a field assignment.\*

This is the guts of the FBI — the extraordinary fingerprint collection, the massive files, a laboratory that brings science to police and intelligence work, and a fast, secure communications network. Without the backup that they provide, without their much-publicized efficiency, any investigation would obviously be less meaningful and the FBI would be less able to help local authorities fight crime. The fingerprints and the files are among the chief sources of the FBI's influence in the police world and of its power in Washington. They are resources that no other agency could hope to match or imitate.



To manage the Bureau's laboratory work, fingerprints, files, and communications requires thousands of clerical employees — although many of them will soon be eliminated by automation — but relatively few trained and experienced FBI agents. Perhaps a hundred agents

\* Thompson, Marshall, and White all retired from the FBI between the time they were interviewed and the completion of this book. Director Clarence M. Kelley replaced Marshall and White, who had spent virtually their entire Bureau careers at headquarters in Washington, with men who had greater experience in the field.

### FBI HEA

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the agencies operated illegally. The problem is that in the quest for law and order, case after case after case after case has been thrown out because the law enforcement and intelligence communities acted illegally. So I do not think we attain any particular status of accomplishment in conquering organized crime, or any crime whatsoever for that matter, with illegal activities resulting in cases being thrown out of court.

I would suggest that the record speaks for itself. Frankly, I never thought the record of former Attorney General Ramsey Clark was that good. But, comparing his record with that achieved by succeeding Attorneys General, he looks like Tom Dewey in his prosecutorial heyday.

Mr. HRUSKA. That record is bad, but do we want to make it worse by adopting this amendment which threatens to tie the hands of the FBI and dry up their sources of information? I say, with that, the soup or the broth is spoiled, and I see no use in adding a few dosages of poison.

The pending amendment should be rejected.

Mr. KENNEDY. Mr. President, I do not recognize the amendment, as it has been described by the Senator from Nebraska, as the amendment we are now considering. I feel there has been a gross misinterpretation of the actual words of the amendment and its intention, as well as what it would actually achieve and accomplish. So I think it is important for the record to be extremely clear about this.

If we accept the amendment of the Senator from Michigan, we will not open up the community to rapists, muggers, and killers, as the Senator from Nebraska has almost suggested by his direct comments and statements on the amendment. What I am trying to do, as I understand the thrust of the amendment, is that it be specific about safeguarding the legitimate investigations that would be conducted by the Federal agencies and also the investigative files of the FBI.

As a matter of fact, looking back over the development of legislation under the 1966 act and looking at the Senate report language from that legislation, it was clearly the interpretation in the Senate's development of that legislation that the "investigative file" exemption would be extremely narrowly defined. It was so until recent times—really, until about the past few months. It is to remedy that different interpretation that the amendment of the Senator from Michigan which we are now considering was proposed.

I should like to ask the Senator from Michigan a couple of questions.

Does the Senator's amendment in effect override the court decisions in the court of appeals on the Weisberg against United States, Aspin against Department of Defense; Dittlow against Brinegar; and National Center against Weinberger?

As I understand it, the holdings in those particular cases are of the greatest concern to the Senator from Michigan. As I interpret it, the impact and effect of his amendment would be to override those particular decisions. Is that not correct?

Mr. HART. The Senator from Michigan is correct. That is its purpose. That was the purpose of Congress in 1966, we thought, when we enacted this. Until about 9 or 12 months ago, the courts consistently had approached it on a balancing basis, which is exactly what this amendment seeks to do.

Mr. President, while several Senators are in the Chamber, I should like to ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Furthermore, Mr. President, the Senate report language that refers to exemption 7 in the 1966 report on the Freedom of Information Act—and that seventh exemption is the target of the Senator from Michigan's amendment—reads as follows:

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

It seems to me that the interpretation, the definition, in that report language is much more restrictive than the kind of amendment the Senator from Michigan at this time is attempting to achieve. Of course, that interpretation in the 1966 report was embraced by a unanimous Senate back then.

Mr. HART. I think the Senator from Massachusetts is correct. One could argue that the amendment we are now considering, if adopted, would leave the Freedom of Information Act less available to a concerned citizen that was the case with the 1966 language initially.

Again, however, the development in recent cases requires that we respond in some fashion, even though we may not achieve the same breadth of opportunity for the availability of documents that may arguably be said to apply under the original 1967 act.

Mr. KENNEDY. That would certainly be my understanding. Furthermore, it seems to me that the amendment itself has considerable sensitivity built in to protect against the invasion of privacy, and to protect the identities of informants, and most generally to protect the legitimate interests of a law enforcement agency to conduct an investigation into any one of these crimes which have been outlined in such wonderful verbiage here this afternoon—treason, espionage, or what have you.

So I just want to express that on these points the amendment is precise and clear and is an extremely positive and constructive development to meet legitimate law enforcement concerns. These are some of the reasons why I will support the amendment, and I urge my colleagues to do so.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Nebraska has 6 minutes remaining.

Mr. HRUSKA. Mr. President, I should like to point out that the amendment proposed by the Senator from Michigan, preserves the right of people to a fair trial or impartial adjudication. It is careful to preserve the identity of an in-

former. It is careful to preserve the idea of protecting the investigative techniques and procedures, and so forth. But what about the names of those persons that are contained in the file who are not informers and who are not accused of crime and who will not be tried? What about the protection of those people whose names will be in there, together with information having to do with them? Will they be protected? It is a real question, and it would be of great interest to people who will be named by informers somewhere along the line of the investigation and whose name presumably would stay in the file.

Mr. President, by way of summary, I would like to say that it would distort the purposes of the FBI, imposing on them the added burden, in addition to investigating cases and getting evidence, of serving as a research source for every writer or curious person, or for those who may wish to find a basis for suit either against the Government or against someone else who might be mentioned in the file.

Second, it would impose upon the FBI the tremendous task of reviewing each page and each document contained in many of their investigatory files to make an independent judgment as to whether or not any part thereof should be released. Some of these files are very extensive, particularly in organized crime cases that are sometimes under consideration for a year, a year and a half, or 2 years.

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. KENNEDY. I yield the Senator 5 minutes on the bill.

Mr. HART. Mr. President, I ask unanimous consent that a memorandum letter, reference to which has been made in the debate and which has been distributed to each Senator, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

#### MEMORANDUM LETTER

A question has been raised as to whether my amendment might hinder the Federal Bureau of Investigation in the performance of its investigatory duties. The Bureau stresses the need for confidentiality in its investigations. I agree completely. All of us recognize the crucial law enforcement role of the Bureau's unparalleled investigating capabilities.

However, my amendment would not hinder the Bureau's performance in any way. The Administrative Law Section of the American Bar Association language, which my amendment adopts verbatim, was carefully drawn to preserve every conceivable reason the Bureau might have for resisting disclosure of material in an investigative file:

If informants' anonymity—whether paid informers or citizen volunteers—would be threatened, there would be no disclosures;

If the Bureau's confidential techniques and procedures would be threatened, there would be no disclosure;

If disclosure is an unwarranted invasion of privacy, there would be no disclosure (contrary to the Bureau's letter, this is a determination courts make all the time; in-

Full text of Congressional Record of which this is part in top drawer of JFK appeals file cabinet.