MY AFFIDAVITS - Their actual nature and the notices of filing

In the course of searching for other records from the case record I noticed these two examples of how my affidavits began with a clear statement of what they addressed. While I, too, would have preferred that Jim do more with them, I also know that he just didn't have the time, particularly because of the demands of in-court cases like Prouty's suit against Amtrak, which permitted him little sleep.

(we did plan to a an appropriate later time.)

The notice of filing of 7/23/82 is for an affidavit Jim rewrote and it, too, begins with a precise statement of what it addresses.

The uses that were planned for these things in ongoing litigation were aborted outside our control and over our objections. Having them in the case record provided ample opportunity for the defendants to respond, as almost without exception they never did, before we wrote it all together.

The first three pages of my affidavit of 5/31/82 are not with a notice of filing. It may have been attached to something else or Jim may not have filed it. I attach it not only as an illustration of my consistent practise, of beginning with a precise statement of what it addresses but also (graf 2) to reflect the fact that when I knew I had other documentation and could not provide it and didn't I nonetheless offered to if the court asked it. All my affidavits where it is relevant include a reference to my limitations, of which no issue was made until it suited the defendant's ulterior purpose, when I responded in full and in detail.

In the course of establishing the FBI's long history of noncompliance with my requests I had text and attachments. The first page of Exhibit one, attached, is to reflect that I provided the FBI and the court with the aide memoire relating to some 25 ignored requests to which I testified in C.A. 75-1996 (some defendants) and copies of which I had already given separately to the FBI and Civil Division, as well as Shea. That there has been almost no subsequent compliance is not disputed in this litigation. The first was litigated separately. (This list is what the Senate Foia subcommittee referred to.)

Exhibit 13 is the Dallas inventory to which I refer in my memo on their brief, first and last two pages only. The information withheld under spurious claims to b2 and 7C and D had already been disclosed in FOIA disclosures of 12/77 and 1/78 and

there was no basis for withholding it. Clearly none of the exemptions are appropriate. I also attach the same three pages from a later and reprocessed version which please not was not provided from any record or indexed copy, for it lacks the file number for filing). Illustrative of the artificially-created problems to create long delays, controversies and costs is the continued withholding of such important for scholars and research information as the file numbers, which cannot identify any "confidential source," the claim made and had been disclosed elsewhere in any event, with the subterfuge for tricky filing to defeat search, filing inanimate taps and bugs records as a live informer. This is what is actually withheld under 7D claim nine lines up on next to the last page

That the FBI knew it had and withheld the Marina Oswald surveillances records was disclosed a year earlier (as I state above) in FBIHQ records attached from the FBIHQ main assassination file, 62-109060. Serial 7426 is the NYTimes story and a memo reflecting some of what the FBI wanted to hide, the fact that it had never sought or obtained authorization for bugging Marina Oswald. Katzenbach's recollection is confirmed by the subsequently disclosed records.

Obviously, no of this information was required from me. Obviously it was indexed and no search was possible without this being learned. Yet there is no inclusion of any of this when full compliance was claimed, a separate attachment. This also illustrates that none of the interrogatories was necessary. All they had to do was make the search never made or attested to.

All of this and ever so much more like it also related to the need and motive for lying on page 2 of the memo to eliminate all of this from the Dallas requests in which it is all included,

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff, v. WILLIAM H. WEBSTER, ET AL., and FEDERAL BUREAU OF INVESTIGATION, ET AL., Defendants	Civil Action No. 78-0322 Civil Action No. 78-0420 (Consolidated)

NOTICE OF FILING

Comes now the plaintiff, Mr. Harold Weisberg, and gives notice of the filing of the attached affidavits of Harold Weisberg.

Respectfully submitted,

James H. Lesar

JAMES H. LESAR
1000 Wilson Blvd., Suite 900
Arlington, Va. 22209
Phone: 276-0404

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of October, 1982, mailed a copy of the foregoing Notice of Filing and the attached affidavits to Mr. Henry LaHaie, Esq., Civil Division, Room 3338, U.S. Department of Justice, Washington, D.C. 20530.

James H. Lesar
JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff, V. WILLIAM H. WEBSTER, et al. and FEDERAL BUREAU OF INVESTIGATION et al., Defendants.	Civil Actions 78-0322 and 78-0420 Consolidated

AFFIDAVIT

My name is Harold Weisberg. I reside at 7627 Old Receiver Road, Frederick, Maryland. I am the plaintiff in this case.

1. In this affidavit I address defendants' following filings: The Phillips Sixth Declaration of August 18, 1982, attached to Defendant's Unopposed Motion to Stay, to which it bears no apparent relationship; Defendant's Opposition (the Opposition) of July 19, 1982, and its magically attached Phillips Seventh Declaration of a month to the day later; Defendant's Reply of September 2, 1982, with its attached Phillips Eighth Declaration of August 26, 1982.

2. Defendant's counsel, without citation of any evidence or even basis for his prejudicial statement - and because he and his client are unable to make factual refutation of my affidavits - refers to me as a "self-appointed expert." He knows better. He ignores the record in this and all my other FOIA litigation and the fact that his own Civil Division has used me as its expert. Because of his inappropriate and baseless slur and because of his ulterior purposes in it, which include an effort to get my affidavits expunged because he is unable to cope with them and their accurate content, I begin with an encapsulation of my accreditation.

3. Defendant's bad faith permeates this as it has all my other FOIA litigation, particularly when I seek FBI information. Inevitably, therefore, in this affidavit I address defendant's bad faith.

7/21/82

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff,	:	
v.	:	Civil Action No. 78-0322
WILLIAM H. WEBSTER, ET AL., and	:	
FEDERAL BUREAU OF INVESTIGATION, ET AL.,	:	Civil Action No. 78-0420
Defendants	:	(Consolidated)

NOTICE OF FILING OF AFFIDAVIT OF HAROLD WEISBERG

Comes now the plaintiff, Mr. Harold Weisberg, and gives notice of the filing of the attached affidavit of Mr. Harold Weisberg.

Respectfully submitted,

James H. Lesar

JAMES H. LESAR
1000 Wilson Blvd., Suite 900
Arlington, Va. 22209
Phone: 276-0404

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of July, 1982, mailed a copy of the foregoing Notice of Filing of Affidavit of Harold Weisberg to Mr. Henry LaHaie, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.

James H. Lesar
JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff, v. WILLIAM H. WEBSTER, ET AL., and FEDERAL BUREAU OF INVESTIGATION, ET AL., Defendants	:	Civil Action No. 78-0322 Civil Action No. 78-0420 (Consolidated)

AFFIDAVIT OF HAROLD WEISBERG

I, Harold Weisberg, first having been duly sworn, depose and say as follows:

1. I have read Defendant's Reply to Plaintiff's Opposition to the Motion for Summary Judgment ("the Reply") and the Fifth Declaration of FBI Special Agent John N. Philips ("the Declaration") which is attached thereto.

2. Phillips states that: "A tickler is a carbon copy of a document prepared for the information and temporary use of individuals at FBIHQ." That the FBI's ticklers are carbon copies only is false. They include xerox copies and even only copies, which are removed from file copies and preserved as parts of ticklers. Within my extensive experience with FBI records, these often are not returned to file copies of records. That ticklers are only temporary is also false. Within my extensive personal experience with FBI records, ticklers have been preserved outside the central filing system for more than a decade, which is hardly "temporary," and even thereafter remain preserved in the central files.

3. Phillips' definition of ticklers is inadequate. The House Select Committee on Assassinations refers to the FBI's ticklers in its Report on page 187. There it states that what was not found

5/31/82

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,	:	
Plaintiff,	:	
v.	:	Civil Action No. 78-0322 & 78-0420
FEDERAL BUREAU OF INVESTIGATION, Et al.,	:	
Defendants.	:	

AFFIDAVIT

My name is Harold Weisberg. I reside at 7627 Old Receiver Road, Frederick, Maryland. I am the plaintiff in this case.

1. I have read Defendants' Response to Plaintiff's Settlement Proposal (the Response) and the attached declaration of FBI SA John N. Phillips, both dated April 15, 1982. Both are made in bad faith; both misrepresent, seek to deceive, mislead and to accomplish ulterior and improper ends, as I specify below.

2. As I have previously informed the Court, I am 69 years old and suffered serious illness following surgeries. These now limit what I can do. Because of these limitations I do not provide additional copies of records I have already provided to defendants in this case. If the Court desires them, with more time I will provide them.

3. Phillips swears falsely. In this he is not unique among FBI FOIA special agents, nor is it unique for him. I have long experience with the FBI's stable of professional swearers and their long record of swearing to anything that might at any moment appear to be expedient to the FBI. I also have a long record of exposing the falsity of their affirmations. I do not recall a single instance in which I was proven to be wrong or, for that matter, a single protest by any one of them that I had made unfair allegations. These people are immune from any perjury charge because they are the agents of the prosecutor, who does not prosecute himself. In my experience the courts appear to be unwilling to confront these

defendants' regular resort to such false, misleading and deceptive affirmations. Among the consequences is great prolongation of litigation, and even that is an asset to defendants, who escalate FOIA costs in order to plead burdensomeness. In only one case in my experience has any court made any comment about the FBI FOIA false swearing. In that case I provided copies of both the actual records and the phony records that particular FBI special agent swore were authentic. That court merely banished that agent. With specific reference to Phillips, he has repeatedly provided false, misleading and deceptive affirmations. I have repeatedly proved them to be of this character, and he is still up to the same tricks for the same defendants, as I specify below.

4. The history of this case is not at all as defendants represent to the Court. Nor are my requests fairly described by the quotation in the Response of their opening sentence, which is all the Response provides. It certainly is not true, as defendants want the Court to believe, that I seek to expand the requests or to treat them as "open-ended."

5. My first request of the FBI for information pertaining to the assassination of President Kennedy was made May 23, 1966. I never received <u>any</u> response. Later, as I obtained copies of internal FBI records under FOIA and PA, I found specific instructions that FOIA and my requests be ignored. They were igrnoed then, and since then, with rare exceptions, they remain ignored until I file suit, when they are stonewalled to the degree possible. The written intent to violate the Act was bucked up to Director Hoover, who approved it. It remains a fair statement of FBI policy.

6. When the FBI's refusal to comply with my requests became an issue in C. A. 75-1996, I provided that court and the Department of Justice with a summary of 25 ignored requests, attached as Exhibit 1. Providing this information first to the Department and later, again, to its appeals office, was fruitless. The FBI decided and stated that because it does not like me and my writing it does not have to comply with the Act.

7. With regard to the 1967 request, the last item on page 1 of Exhibit 1, the request was for a copy of an FBI press release that was published word-for-word in the newspapers. Years later, when my counsel asked the FBI for a copy for me, he was told I could not get this press release without asking for it under FOIA.

My FOIA request for it added to the inflated statistics pertaining to FOIA labor and costs that the FBI compiles.

8. With regard to the two requests consolidated in this case, prior to the first calendar call, I conferred with both Quinlan J. Shea, Jr., then head of the Department's FOIPA office and then Department counsel in an effort to avoid the problems the FBI had been manufacturing in my prior cases. Two of the most common abuses are not making searches in response to the specific items of my requests and the withholding of the public domain.

9. The FBI's FOIA personnel are not subject experts. Sometimes they have no convenient way of knowing what is within the public domain. I obtained the agreement of the appeals office to review a sample of the first 5,000 pages of the records involved in this case before disclosure to me so it could correct errors in the processing. I then asked Department counsel to agree to this so that the processing could be improved and the waste of time and costs and creation of unnecessary problems could be avoided. I also agreed to help in any way possible. However, because, as it usually does with me, the FBI wanted to minimize compliance, escalate costs and delay as much as possible, instead of doing this it shipped all the records it claimed satisfied each request all at one time.

10. The FBI has the stated purpose of "stopping" me and my writing. In this and in other cases it has succeeded by tying me up in entirely unnecessary litigation it then stonewalls. Witness the fact that it refuses to settle this case without the time and costs of any Vaughn listing, which also has other ulterior purposes. More than four years after the request the FBI still has not made the required searches. Almost four years after the FBI claimed full compliance - as recently as a month ago - it was still providing records within the requests and it has many more it has not yet provided. It refuses to do what it was directed to do by the appeals office. It is literally true that the FBI plotted to "stop" me and my writing, the word used by several SAs in their memoranda. They schemed, with approval all the way up to Director Hoover, to file a spurious libel suit as one way of "stopping" me and my writing. The FBI's legal division spent time and public money in legal research to determine whether the special agent could sue me. When it reported that he could, he chickened out. Years later when, thanks to FOIA, I learned of this scheme, to turn the wealth and

CA 78-0322
EXHIBIT 1

Information requests of Department of Justice by Harold Weisberg

This list is not inclusive. There is a file of correspondence more than an inch thick I have not yet been able to go over. I recall none of my many checks not being cashed. This list includes 29 requests, not counting the many duplications of some of them. When with regard to one of these there was an exchange of more than 40 letters during my repetition of that one request, if the actual number of repetitions are counted, there were in excess of 100 requests with virtually total noncompliance.

Four of these earlier requests are for information in the King assassination. My requests represented in C.A. 75-1996 are not included in this listing. There has not been compliance with any of these four requests or a later, relevant one.

One of these requests was complied with after eight years of effort by me. After six years there was partial compliance with that request by another agency. The Department still has and still withholds relevant records, some of which I have obtained from a nonofficial source, which gives me personal knowledge.

In two cases there was incomplete compliance.

In three cases the records sought were claimed not to exist. In at least two this is proved to be false.

In one case one picture I have sought for more than seven years was released to another. It is more than three months since my protests. There has been no response and no compliance - after almost eight years, despite release.

1970

May 25, for spectrographic analysis of assassination. Still in litigation.

1967

July 10, for FBI press release. This press release related to my second book, unpublished at the time the press release was issued. Additional requests of four different dates [illegible] June 7, 1968, August 13, 1973, and September 27, 1975. Obtained October 17, 1975.

CA 78-0322
EXHIBIT 13

FBI

Date: 1/7/77

Transmit the following in _____ (Type in plaintext or code)

Via TELETYPE (Precedence)

563

FM DALLAS (89-43) (P)

TO DIRECTOR (62-117290) PRIORITY

BT

E F T O

ATTN: GENERAL INVESTIGATIVE DIVISION, CIVIL RIGHTS SECTION, CONGRESSIONAL INQUIRY UNIT.

HOUSE SELECT COMMITTEE ON ASSASSINATIONS.

RE BUREAU TELETYPE TO ALL SACS, JANUARY 6, 1977.

RESULTS OF FILE INVENTORY, DALLAS DIVISION, AS FOLLOWS:

1. ASSASSINATION OF PRESIDENT JOHN FITZGERALD KENNEDY, DALLAS, TEXAS, NOVEMBER 22, 1963, MISCELLANEOUS - INFORMATION CONCERNING. OO: DALLAS, BUREAU FILE 62-109060. DALLAS FILE 89-43.

THE DALLAS OFFICE IS OFFICE OF ORIGIN IN CAPTIONED CASE.

THIS FILE CONSISTS OF 122 VOLUMES, INCLUDING NINE VOLUMES OF NEWSPAPER CLIPPINGS. THE 122 VOLUMES CONTAIN 9930 SERIALS, WITH MANY INDIVIDUAL SERIALS CONTAINING NUMEROUS PAGES. THE

(1) - Dallas
UHS:bjw
(1)

89-43-4458

Special Agent in Charge Sent 1830Z M Per

GPO 1979 O - 305-845

(Rev. 2-14-74)

FBI

Date:

Transmit the following in _____ (Type in plaintext or code)

Via _____ (Precedence)

DL 89-43 PAGE FOUR

PRESIDENT KENNEDY. BUREAU FILE 62-109090. DALLAS FILE 62-3588.

THE DALLAS OFFICE SUBMITTED ROUTINE COMMUNICATIONS. A REVIEW OF THE 26 VOLUMES CONTAINING THE RESULTS OF HEARINGS BEFORE THE PRESIDENTS COMMISSION IS SET FORTH IN THIS FILE. THIS REVIEW WAS CONDUCTED BY SAS OF THE DALLAS OFFICE.

THIS FILE CONSISTS OF TWO VOLUMES CONTAINING 189 SERIALS. THE ONLY EXHIBITS IN CONNECTION WITH THIS FILE ARE BOOKS DEALING WITH THE PRESIDENTS COMMISSION AND TWO AFFIDAVITS FROM SAS OF THE FBI.

[redacted]

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b7D
b7E

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Approved: _____ Special Agent in Charge Sent _____ M Per _____

GPO : 1975 O - [illegible]

(Rev. 2-14-74)

FBI

Date:

Transmit the following in _____ (Type in plaintext or code)

Via _____ (Precedence)

DL 89-43 PAGE FIVE

[redacted]

b7E

FOR THE ADDITIONAL INFORMATION OF THE BUREAU, THE DALLAS OFFICE HAS ESTABLISHED A SPECIAL JOHN F. KENNEDY ASSASSINATION FILES INDICES CONSISTING OF APPROXIMATELY 40 LINEAR FEET OF 3" BY 5" INDEX CARDS. THESE INDEX CARDS ARE MAINTAINED SEPARATE FROM THE GENERAL INDICES. ALSO ESTABLISHED WAS A SPECIAL COMMUNICATIONS INDEX IN THE EARLY MONTHS OF THE JFK ASSASSINATION INVESTIGATION CONSISTING OF APPROXIMATELY 2½ LINEAR FEET OF 5" BY 8" INDEX CARDS WHICH ARE ALSO MAINTAINED SEPARATE FROM THE GENERAL INDICES.

NO KNOWN MATERIAL RELATIVE TO THE MARTIN LUTHER KING, JR. ASSASSINATION (MURKIN) AND THE ABOVE LISTED FILES RELATED TO THE JOHN F. KENNEDY ASSASSINATION HAVE BEEN DESTROYED UNDER THE DESTRUCTION OF FILES AND RECORDS PROGRAM.

BT

#

Approved: _____ Special Agent in Charge Sent _____ M Per _____

GPO : 1976 O - 606-863

FD-36 (Rev. 2-14-74)

FBI

Date: 1/7/77

Transmit the following in _____ (Type in plaintext or code)

Via TELETYPE (Precedence)

563

FM DALLAS (89-43) (P)

TO DIRECTOR (62-117290) PRIORITY

BT

E F T O

ATTN: GENERAL INVESTIGATIVE DIVISION, CIVIL RIGHTS SECTION, CONGRESSIONAL INQUIRY UNIT.

HOUSE SELECT COMMITTEE ON ASSASSINATIONS.

RE BUREAU TELETYPE TO ALL SACS, JANUARY 6, 1977.

RESULTS OF FILE INVENTORY, DALLAS DIVISION, AS FOLLOWS:

1. ASSASSINATION OF PRESIDENT JOHN FITZGERALD KENNEDY, DALLAS, TEXAS, NOVEMBER 22, 1963, MISCELLANEOUS - INFORMATION CONCERNING. OO: DALLAS, BUREAU FILE 62-109060. DALLAS FILE 89-43.

THE DALLAS OFFICE IS OFFICE OF ORIGIN IN CAPTIONED CASE.

THIS FILE CONSISTS OF 122 VOLUMES, INCLUDING NINE VOLUMES OF NEWSPAPER CLIPPINGS. THE 122 VOLUMES CONTAIN 9930 SERIALS, WITH MANY INDIVIDUAL SERIALS CONTAINING NUMEROUS PAGES. THE

1 - Dallas
UHS:bjw
(1)

89-43-9958

Special Agent in Charge Sent 1830Z M Per

GPO 1975 O - 569-929

FD-36 (Rev. 2-14-74)

FBI

Date:

Transmit the following in _____ (Type in plaintext or code)

Via _____ (Precedence)

DL 89-43 PAGE FOUR

PRESIDENT KENNEDY. BUREAU FILE 62-109090. DALLAS FILE 62-3588.

THE DALLAS OFFICE SUBMITTED ROUTINE COMMUNICATIONS. A REVIEW OF THE 26 VOLUMES CONTAINING THE RESULTS OF HEARINGS BEFORE THE PRESIDENTS COMMISSION IS SET FORTH IN THIS FILE. THIS REVIEW WAS CONDUCTED BY SAS OF THE DALLAS OFFICE.

THIS FILE CONSISTS OF TWO VOLUMES CONTAINING 189 SERIALS. THE ONLY EXHIBITS IN CONNECTION WITH THIS FILE ARE BOOKS DEALING WITH THE PRESIDENTS COMMISSION AND TWO AFFIDAVITS FROM SAS OF THE FBI.

FOR THE INFORMATION OF THE BUREAU, TECHNICAL AND MICROPHONE (b)(2)(b)(7)(D) INSTALLATIONS [redacted] AND [redacted] WERE IN OPERATION AT THE RESIDENCE OF MARINA OSWALD, RICHARDSON, TEXAS, FROM FEBRUARY 29, 1964 THROUGH [redacted], 1964.

(b)(6)(b)(7)(D) LOGS ARE MAINTAINED IN DALLAS FILE [redacted] (3 PAGES) (b)(2)(b)(6)(b)(7)(D) AND [redacted] MARKED, "LOGS ONLY". TRANSCRIPTS (b)(2)(b)(6)(b)(7)(D) ARE MAINTAINED IN DALLAS [redacted] (13 SERIALS) AND DL [redacted] (NINE SERIALS) MARKED, "TRANSCRIPTS ONLY".

AS A RESULT OF THE OPERATION OF THE ABOVE SOURCES, THE DALLAS OFFICE HAS RETAINED 22 TAPES AS EXHIBITS. PERTINENT

Approved: _____ Special Agent in Charge Sent _____ M Per _____

GPO : 1975 O - 590-892

FD-36 (Rev. 2-14-74)

FBI

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Precedence)

DL 89-43 PAGE FIVE

INFORMATION CONTAINED IN THEM WAS INCLUDED IN A REPORT [redacted] DATED MARCH 23, 1964, AT DALLAS IN CASE CAPTIONED, "LEE [redacted] HARVEY OSWALD, AKA, IS-R - CUBA", DALLAS FILE 100-10461, BUREAU FILE 105-82555.

FOR THE ADDITIONAL INFORMATION OF THE BUREAU, THE DALLAS OFFICE HAS ESTABLISHED A SPECIAL JOHN F. KENNEDY ASSASSINATION FILES INDICES CONSISTING OF APPROXIMATELY 40 LINEAR FEET OF 3" BY 5" INDEX CARDS. THESE INDEX CARDS ARE MAINTAINED SEPARATE FROM THE GENERAL INDICES. ALSO ESTABLISHED WAS A SPECIAL COMMUNICATIONS INDEX IN THE EARLY MONTHS OF THE JFK ASSASSINATION INVESTIGATION CONSISTING OF APPROXIMATELY 2½ LINEAR FEET OF 5" BY 8" INDEX CARDS WHICH ARE ALSO MAINTAINED SEPARATE FROM THE GENERAL INDICES.

NO KNOWN MATERIAL RELATIVE TO THE MARTIN LUTHER KING, JR. ASSASSINATION (MURKIN) AND THE ABOVE LISTED FILES RELATED TO THE JOHN F. KENNEDY ASSASSINATION HAVE BEEN DESTROYED UNDER THE DESTRUCTION OF FILES AND RECORDS PROGRAM.

BT

#

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

GPO : 1975 O - 590-992

November 21, 1975

Honorable Nicholas DeB. Katzenbach
IBM Corporation
Armonk, New York 10504

Dear Mr. Katzenbach:

I have been informed that you recently called Deputy Attorney General Harold Tyler to express your concern about an article written by John Crewdson in the New York Times concerning taps and/or bugs on Marina Oswald. I understand that you said this article may be unfair to us and certainly it may also have been unfair to you. The fact that you took the time and trouble to inform Judge Tyler is most appreciated, and I am hopeful that this matter will be straightened out in order that we might prevent even further misunderstandings.

Sincerely,

/s/ Clarence Kelley

REC 8 62-109060-7425

5 DEC 3 1975

CMK:EDM (3)

SENT FROM D. O.
TIME 4:45PM
DATE 11-21-75
BY MCAT

REC'D - FBI

Assoc. Dir. ___
Dep. AD Adm. ___
Dep. AD Inv. ___
Asst. Dir.: ___
Admin. ___
Comp. Syst. ___
Ext. Affairs ___
Files & Com. ___
Gen. Inv. ___
Ident. ___
Inspection ___
Intell. ___
Laboratory ___
Plan. & Eval. ___
Spec. Inv. ___
Training ___
Legal Coun. ___
Telephone Rm. ___
Director Sec'y ___

57 DEC 8 1975

MAIL ROOM ☐ TELETYPE UNIT ☐

GPO : 1975 O - 569-920

Sec 183

UNITED STATES GOVERNMENT

Memorandum

Admin.	
Comp. Syst.	
Ext. Affairs	
Files & Com.	
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Ident.	
Intell.	
Laboratory	
Plan. & Eval.	
Spec. Inv.	
Training	
Legal Coun.	
Telephone Rm.	
Director Sec'y	

O : Director, FBI

DATE: October 31, 1975

ROM : Harold R. Tyler, Jr.
Deputy Attorney General

UBJECT: New York Times Article, October 30, 1975, (page 34)
Assassination of President John F. Kennedy

On the morning of October 30th, I received a telephone call from Nicholas Katzenbach. Mr. Katzenbach was concerned about the article by John Crewdson in the Times concerning taps and/or bugs of the home or apartment of Marina Oswald. Specifically, according to the Crewdson article, the FBI is said to have made a statement that it had conducted "an electronic surveillance" of Mrs. Oswald's residence for a period in February and March, 1964 "based upon written approval of the Attorney General of the United States."

According to Katzenbach, this article may be erroneous and unfair, both to the FBI and former Attorney General Robert Kennedy. Further, according to Katzenbach, he recalls that the tap was placed on Mrs. Oswald's residence pursuant to a request from Chief Justice Earl Warren. Katzenbach is of the opinion that Mr. Kennedy did not attach the letter which he received from the Chief Justice in order to protect the privacy or reputation of the latter.

Finally, according to Mr. Katzenbach, it is his recollection that no bug or other form of electronic surveillance of Mrs. Oswald was ever authorized. Indeed, he is inclined to the belief that the FBI did nothing but the phone tap as heretofore described.

cc: The Attorney General

REC 8 EX 103 62-109060-7426

5 DEC 3 1975

CORRESPONDENCE

ENCLOSURE

Tap on Marina Oswald's Room Reported by Ex-F.B.I. Official

He Says Warren Commission Was Not Told of Action After Kennedy Death

By JOHN M. CREWDSON
Special to The New York Times

WASHINGTON, Oct. 29—The Federal Bureau of Investigation tapped the telephones and bugged the living quarters used by Marina Oswald after the t assassination of President Kennedy, it failed to report either the fact of the surveillance or its prodnct to investigators for the Warren Commission, according to a former F.B.I. official.

The official, who was closely involved with the investigation conducted by the bureau in the wake of the assassination, said that the alectronic surveillance was instituted on the Russian-born Mrs. Oswald shortly after her husband, Lee Harvey Oswald, was identified as the principal suspect in Mr. Kennedy's murder.

The surveillance, the former official said, continued for "some months" after the death of Mr. Kennedy on Nov. 22, 1963, and the killing of Oswald himself two days later by Jack Ruby, a Dallas nightclub operator.

But the former official said that, to the best of his recollection the surveillance never produced any information that apparently bore directly on Oswald's motives or that supported the suspicions held by some F.B.I. officials that he had been involved in a conspiracy against the President's life. It was those suspicions, the former official said that prompted the bureau to initiate its electronic "coverage" of Mrs. Oswald.

The F.B.I. said in a statement this afternoon that it had "conducted an electronic surveillance of Marina Oswald's residence from Feb. 29, 1964, to March 12, 1964, based upon written approval o fthe Attorney General of the United States."

The Government contended then that in "national security" cases court permission was not required. The late Robert F. Kennedy was Attorney General at that time.

The bureau did not deal with its reported failure to inform the Warren Commission of the eavesdropping effort, and a spokesman said he would be unable to go beyond the statement.

Not in Testimony

None of the volumes of testimony or evidence published by the Warren Commission contain any hint that commission lawyers were told by the F.B.I. of its surveillance of Mrs. Oswald, which the former official said took place in and around the Dallas area where she and her husband lived.

The former official's assertion was supported by key commission connsel and investigators, who said in telephone interviews that they could not remember having been told that Mrs. Oswald's conversations had been monitored.

David W. Belin, a lawyer from Des Moines Iowa, who served as an assistant counsel to the commission, said that if the former official's account was accurat, "t strikes me as horrible" that the commission was left uniformed.

His sentiments were shared by Albert E. Jenner Jr., also a former assistant commission counsel and now a Chicago lawyer, who said that whether the surveillance of Mrs. Oswald had come out "positive or negative," the panel should have been allowed to weigh whatever information was gleaned.

The commission, named for Earl Warren, the late Chief Justice who acted as its chairman, was set up by President Johnson within a week of Mr. Kennedy's death with instructions to determine the circumstances that surrounded the assassination.

The commission's report was initially heralded and subsequently defended by most of those who prepared it as a definitive assessment of all of the evidence then in the hands of Federal agencies and others that related in any conceivable way to Mr. Kennedy's death.

The former F.B.I. official's account of the withholding of the wiretap and bugging data on Mrs. Oswald, however, is but the most recent indication that the evidence made available to the commission was less than complete.

Last week, for example, the F.B.I. acknowledged that one of its agents had destroyed, within hours of Oswald's death, an allegedly threatening letter he had received from Oswald less than a month before Mr. Kennedy was shot.

Joseph A. Ball, a third lawyer who served as an assistant counsel to the Warren Commission, said today in a telephone interview from his Long Beach, Calif., office that he, too, was certain he never had been told about the electronic surveillance of Mrs. Oswald.

If he had been, Mr. Ball said, he "would never have permitted" the F.B.I. to use such techniques in its investigation on behalf of the commission.

Mr. Ball added, however, that he did recall having been told that the bureau had bugged the hotel room that Mrs. Oswald occupied on her visit to Washington to testify before the commission.

That bugging was also confirmed by the former official, who said that it had produced nothing apparently related to the investigation at hand.

The bureau denied in its statement this afternoon that it had conducted electronic eavesdropping on Mrs. Oswald at her Washington hotel.

The disclosure that the surveillance of Mrs. Oswald continued at least through February, 1964, the month in which she testified before the commission, raised questions about the locations where the F.B.I. placed bugging devices and tapped the telephones referred to by the former official.

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