Mr. M. Hirsh Goldberg
901 Dulaney Valley Road, #401
Towson, MD 21204

2/17/97

Dear Mr. Goldberg

If I do not get any satisfactory response to the enclosed letter to the Deputy AG I may file a FOIA lawsuit pro se. I can file in Washington or Baltimore and just about all can be done by mail. There is, I think, the possibility of attention in it. There certainly should be if it goes to a hearing and there is any coverage. I have not in any sense exaggerated to the Deputy.

There is I believe a fine book and more in the Ray case. If he does not get a liver he does not have long to live, I heard from his brother Jerry. More include at least a documentary and maybe a movie.

I have done the only factual work on the case, including by his present lawyer who wrote a book supposedly about it that is pretty bad. He thinks he is Perry Mason and real life is like a TV show. And the work is all mine except that as it was used in court it is public. I have those transcripts and none was ever used. I decided against going farthur and spent all my time on the JFK case because blacks were indifferent.

It fell to a young lawyer and me to exercise discovery and then prepare the case with senior counsel abroad. We divided it up, the lawyer taking the law and I the fact, the evidence. With the lawyer who put Ray away Percy Foreman, then the country's most famous criminal lawyer, and with the basis for the trial request being his having no effective assistance of counsel and his plea not being voluntary, I decided that the only way to face that was to try the case alleged against Ray and prove no effective assistance of counsel that way. It was so effective that in his decision turning the request down the judge actually, literally, said that guilt or innocence were not before him and he ignored all else and turned us down. He decided against the evidence, as the judge can always do.

I found another case in which Foreman put his client away in the interest of the government and when in the end he could not avoid being convicted in a case involving H. L. Hunt's sons he never went to jail. He was about to put another client away, that time for the Hunts, when by accident the young man he was going to victimize discovered the proof. I got copies from his lawyer.

I wish I knew someone who could use that material and has the time mastering it would require.

Sincerely,

Harold Weisberg

cc Earl Slater

The Deputy Attorney General
The Department of Justice
Washington, DC 20530

Harold Weisberg
7627 Old Receiver Rd.
Frederick, MD 21702

2/17/97

Dear Mr. Gorelick,

I take this time when I am old and feeble in the hope that this does get your attention because I believe that is in your interest, in the Departments, in the country's and yes, in the FBI's. I write of personal experience and I tell you that the FBI lab and its scandals exceed anything yet indicated in the papers. (Please excuse my typing. It cannot be an, better. I'm 83 and am fortunate to be surviving many serious health problems, most recent congestive heart failure and renal failure among others.)

Not one of the many FOIA cases I took to court should have gone there. The Department and the FBI gave me no real alternative. And the one case I lost through FBI and Department misrepresentations to the court led to the 1974 amending of the investigatory files exemption to make FBI, CIA and similar records FOIA accessible.

I do not use "misrepresentations" lightly. The fact is that perjury, including undenied perjury by the FBI and its lab in particular, were not unusual in those cases. In CA 75-225, the first case filed under the amended Act, I put myself under oath so that if I lied it would be perjury to charge perjury to the FBI lab. I enclose parts of the first and third pages of a Department "defense" in which it told that court I could make and prove those charges ad infinitim because I knew more about the JFK assassination and its investigations than anyone working for the FBI. So, the Department was well aware of this FBI perjury.

On October 11, 1996 I wrote the attorney general forecasting the possibility of additional FBI scandals and asking that she see to compliance with my earlier requests and lawsuits so that what I then was able to prove had been withheld would be provided. She did not see that letter. Her office routed it to those who created the need for about a dozen FOIA lawsuits that were quite costly to the government. To this day I have only overt lies from the FBI which with its usual flair for dirty trick for those it does not like has given a new FOIA number to requests more than two decades old, some litigated and lied in by the FBI to withhold what clearly existed and was not immune in any way.

If my interest were in adding to the existing scandals that are far from all or even the most serious I would file in court. Because of my history with the FBI, my age and health I think that suit would get attention. If I did that I'd catalogue lab horrors the likes of which have not yet appeared in the papers. But I do not ~~believe~~ believe that further undermining the lack of

confidence most Americans have in their government should not be necessary to bring about the necessary reforms only some of which have been reflected in the news stories I've seen.

Two of the lab agents we deposed on compliance spoke to the author of a book in which the FBI was interested. One of them, one of three who retired in the hope that could frustrate their being deposed, told the author of that book that J. Edgar Hoover had told him to read and annotate the first books on the JFK assassination and to write him a memo about them. My Whitewash: The Report on the Warren Report was the first such book. It is the first of my eight. Those annotations and that memo are within my FOIA request for the lab work in the JFK assassination and my Privacy Act requests for all information on or about me. They are not new requests and I can't expect to live as long as it will take the FBI to reach any new number in the backlog it keeps adding to.

First the FBI told me I had been given everything. That is a lie.

In the end, refusing to make any search, it told me that information had been sent to the National Archives. I knew that was a false but I wasted the time the FBI wanted me to waste by asking the Archives. January 30 the Archives wrote me that as I'd been certain, those records have not been give it by the FBI. But the 1992 Act required that they do just that. The FBI was not about to make those records available because they have to be very dishonest and that would embarrass the Bureau.

I wrote Kevin O'Brien, FBI FOIPA chief immediately calling his lie to his attention. as yet I have no response. If what I may ultimately get is a response.

Now if I do have to take this to court to get what the FBI denied me by deliberate violation of the law I will go into the history of its record of these lies and abuses and that will go back, of my personal knowledge, more than 30 years. The agent Mr. Hoover had read and annotate those books and write him that memo lied to the Warren Commission to deceive and mislead it. He is only one of the lab agents who did that. To the degree possible the FBI withheld those who did the work, who had the personal knowledge, and had hearsay testimony accepted.

To give you an idea of the deliberate dishonesty of some of that testimony there is the matter of the shot that missed in the JFK assassination. It struck a curbstone at the diagonally opposite end of Dealey Plaza. The FBI pretended there was no such missed shot despite the proof of it, including pictures of its impact, in the FBI's files. Finally it sent Lab Agent Lyndal Shaneyfelt down to Dallas to find it. He found the spot and knew it had been patched! Finding it was easy with the existing pictures. Even the Dallas case

agent knew it was patched. He covered himself on this with what he wrote and I have. With the curbstone flown back to the Lab it was subjected to spectrographic examination by the spectrographer, Gallagher. His notes- and there was not any report filed by the lab - identify only two of the dozen elements in the alleged bullet. The FBI referred to that obvious ~~concrete~~ concrete paste patch as a "smear," for all the world as though a bullet impact leaves a smear, not a hole, and said to the Commission it could have come from the core of the alleged bullet. Not only the did the F.B.I's own test prove ~~xxx~~ that was not possible, the patching is visible to the naked eye. (It has since been examined professionally. It is a concrete paste patch.)

Gallager did not testify on this to the Commission. Shaneyfelt and Robert Frazier did. Frazier testified, and I am confident this is perjury in the case of the assassination of the President, that the "smear" could have been caused by the core of the alleged bullet. The test results he had proved this impossible. Then there is also his notes when he first examined the test results and from that alone knew of the impossibility. In his notes he wrote what he did not tell the Warren Commission, that the "smear" could have been caused by "an automobile wheel weight."

This is but one of dozens of similar deceptions and misrepresentations by the FBI and its Lab to pretend that the assassination was solved when it was not. The available record is impressive in that it proves that virtually nothing alleged by the FBI was true and proven and much if not most was not, was the exact opposite.

I think you can see from this one illustration why what Frazier annotated in those books, including mine, and what he wrote to keep Mr. Hoover happy will not be willingly disclosed by the FBI. It is still most concerned about its image.

Please believe me, Ms. Gorelick, in the more than 30 years since my first book appeared I have not gotten, about it or any of that that followed, a single call or letter from any of the many of whom I wrote ~~xxx~~ critically protesting that I had been unfair or inaccurate. What I say about this above is not in any sense exaggerated. There is in it the making of an unprecedented scandal.

This is also true in the investigation of the assassination of Martin Luther King, Jr. In an effort to make our system of justice work I became his investigator. I did the investigation for the successful habeas corpus and the for the two weeks of evidentiary hearing in which we did not prevail. With all the attention that is now getting I'll provide more, much more on this if you'd like. My first effort under FOIA, frustrated by the Department for

quite some time, until I finally got an order from the court for its production, was for public records only. And I had to use FOIA to get what had been disclosed, then was stalled on it until I got that summary judgement, to get only what was given to the British court to procure Ray's extradition (which was in violation of the then treaty in any event). When I had to wait so long in the Civil Division office I actually fell asleep waiting for that file to be shown me, ~~when it was~~ It was, actually, all stamped SECRET- what had been given to the British court and used in public over there!

The truth is that the FBI had no witness it could use to place Ray even in the city of Memphis at the time of the crime! (A separate point for which I'll take time if you are interested, its records abound in disproof of its most basic conclusions that it palmed off as fact.)

There is no doubt in my mind that what the FBI referred to as the "death" rifle was not used in the crime at all. This same Robert Frazier executed an affidavit used to procure that extradition in which he swore that examination of the remains of the bullet disclosed no marks of distinction. In fact the FBI did no test firing. Frazier's affidavit is all it had. It did much other and irrelevant test firing. Even finally gave me the results. But the one and only allegedly relevant rifle, a brand new one, was not test fired.

Frazier's affidavit was more than enough to make me suspicipus but although I am not an expert when I examined that remnant of bullet, held it in my hands, I did not believe what he swore to. So, as Ray's investigator I obtained a well-known authentic authority, he examined that bullet remnant, and he testifed in that Memphis hearing that given that fragment, that rifle and the right to test fire he was absolutely certain that he could testified either that the bullet had been fired from that rifle of had not been.

(Other evidence leaves it without question, that rifle was a plant and Ray was not there at the time it was dropped to do the dropping of it. Moreover, although the rifle has a clip (MAGAZINE) for a reserve supply of ammunition, in that rifle when it was found there was no extra bullet in it to be fired as in self-defense on escaping or if the first shot missed. There was only the empty shell. The Lab's other work (also) was refuted in that hearing. There was no rebuttal.

These are the two most terrible crimes of your lifetime and mine and in them both the record of the FBI is both utterly dishonest and scandalous. I am quite prepared to state this under oath and inconsiderably more detail and with documentation that will be I think quite extensive. I'd rather not. I'd rather that rectification happen on the basis of what has gotten attention. But I do want the records to which I am entitled that the FBI lied to deny me after its inital perjury relating to them.

Sincerely, Harold Weisberg

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff -v- UNITED STATES DEPARTMENT OF JUSTICE, et al., Defendants	Civil Action No. 75-226

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTIONS TO STRIKE, TO COMPEL ANSWERS TO INTERROGATORIES, FOR PRODUCTION OF DOCUMENTS, AND RESPONSE TO MOTION TO POSTPONE CALENDAR CALL AND STAY ALL FURTHER PROCEEDINGS

On February 19, 1975, plaintiff filed this suit under the Freedom of Information Act, as amended, 5 U.S.C. 552, seeking disclosure of the spectrographic analyses and other tests made by the F.B.I. for the Warren Commission in connection with the investigation into the assassination of President John F. Kennedy, as well as any tests made by the Atomic Energy Commission in connection with said investigation.

On March 14, 1975, plaintiff and his attorney met with representatives of the F.B.I. for the purpose of specifically identifying the scope of plaintiff's request.*/ Defendants attach

*/ Plaintiff's attorney was advised by correspondence prior to filing of this action that the Atomic Energy Commission (now Energy Research and Development Administration) provided technical assistance to the F.B.I. at AEC's Oak Ridge National Laboratory

for plaintiff to specify what documents he contended had not been given and to thereby resolve the matter amicably.

Subsequent to the calendar call, counsel for defendants was served with plaintiff's motion to strike the Kilty affidavit on grounds, inter alia, of bad faith, and other discovery-related motions calculated to probe behind defendants' assertions of good faith compliance with plaintiff's Freedom of Information Act request. Plaintiff alleges in his motion to strike and attached affidavit that the Kilty affidavit is deliberately deceptive, not based upon personal knowledge, and should have been made by Special Agent Robert A. Frazier who plaintiff believes is still an active agent with the F.B.I. Laboratory. Defendants respectfully inform counsel and the Court, however, that Special Agent Robert A. Frazier retired from the F.B.I. on April 11, 1975 after thirty-three years, ten months and three days service, and that supervisory Special Agent Kilty is the most knowledgeable active service Special Agent to give this testimony on behalf of the F.B.I.

In the motion to strike (pp. 2-3), plaintiff also alleges the existence of certain documents which he claims have not been provided by the F.B.I. In a sense, plaintiff could make such claims ad infinitum since he is perhaps more familiar with events surrounding the investigation of President Kennedy's assassination than anyone now employed by the F.B.I. However, in a final attempt to comply in good faith with plaintiff's request, a still

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 "investigatory 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; Dillow against Bringar; and National Center against Weinberger?

As I understand it, the holdings in these 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 these 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 informer. 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.

Remington

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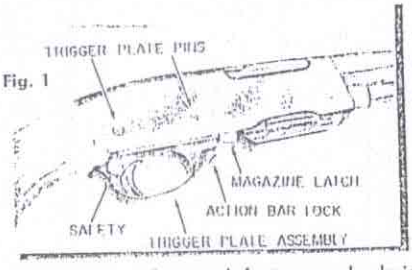


Fig. 1

Your Remington GAMEMASTER is a slide action repeater, available in a number of center fire calibers. Two (2) grades are supplied . . . Standard and new BDL "Custom Deluxe." Standard grade lists both rifle and carbine length models.

A five (5) shot capacity is available in both models, counting four (4) cartridges in detachable clip magazine and one (1) in barrel chamber. Extra clips can be ordered.

A new step receiver styling design for the BDL provides a level-line sighting from stock to sights. Front and rear sights are removable for additional telescope mounting sight requirements. Barrel screw holes may be filled with receiver plug screws removed from receiver.

The American walnut stock features a cheekpiece and Monte Carlo comb on the BDL grade. For left hand shooters, a cheekpiece and left hand safety are available in the BDL. In both grades, the form fitting pistol grip has been accentuated with a black cap and white spacer. A black fore-end tip and white spacer are also standard items on the fore-ends of both grades.

Custom checkering has been applied to the stock and fore-end. An attractive basket weave pattern highlights the BDL grade while a neat "skip line" design is offered in the standard. The tough Du Pont RK-W wood finish adds a lustrous quality appearance to both grades.

SAFETY (Fig. 1) — Cross bolt type at rear of trigger. Red band marking on safety will not show when safety is pushed across to ON SAFE stop position. Trigger cannot be pulled to fire cartridge.

Caution: Before firing make sure barrel is clean, free of heavy oil, grease, snow, or any obstruction.

To FIRE — Push safety to FIRE position. Red band marking on safety will show.

REPEAT FIRING — Trigger must be pulled each time. Slide fore-end back and forth to eject fired cartridge case and reload barrel.

TO SINGLE LOAD BARREL — Push safety ON SAFE. Unlock action by pressing upward on action bar lock (Fig. 1). Slide fore-end back to open action. Drop cartridge into open receiver port and upon empty magazine. Close action to load cartridge in barrel.

TO MAGAZINE LOAD — Push safety ON SAFE. Rotate magazine latch (Fig. 1) forward and pull out magazine. Load cartridges toward small front end of magazine. Press cartridges down into magazine one upon the other, until held in a stagger column. When fully loaded, magazine will hold four (4) cartridges. To replace magazine, operate latch again, push magazine evenly into gun. Release latch as magazine clicks into locked position.

TO UNLOAD MAGAZINE — Remove from gun and slide cartridges carefully forward and out of magazine. Extra magazines may be carried for fast reloading.

TO UNLOAD BARREL — Push safety ON SAFE. Remove magazine. Press action bar lock upward to unlock action. Open action slowly, and carefully remove live cartridge from receiver.

SIGHT ADJUSTMENT — Factory sights on Remington high power rifles are targeted at 100 yards and carefully adjusted at factory for average shooters. If your rifle does not appear to shoot accurately it does not necessarily mean that sights are improperly aligned. Individual differences in eyesight or method of shooting may require sight re-alignment. Make sure that adjustable dovetail front sight (where supplied) is centered on barrel. Before attempting to re-align sights it should be realized that the greater the group size the more difficult it becomes to determine where rifle is shooting (center of impact). A consistent method of holding rifle, aiming and squeezing trigger will aid in obtaining a small group size. Different sight settings are required for each cartridge type, bullet type and weight, barrel length, each range and wind condition and, most likely, each individual shooter.

To test rifle for accuracy place large target in safe area at desired range. (Before testing at a longer range it is advisable to fire a few rounds at 50 yards. At this range, bullets will generally hit somewhere on target.) Shoot from a prone or sitting position giving body and elbows solid support. Fire four or five shots per group, using ammunition with which you plan to hunt. Shoot carefully and deliberately. If groups are at desired point, sights are correctly adjusted. If not, you should adjust sights.

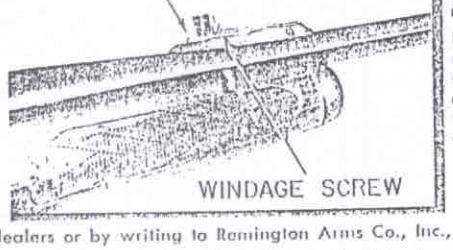
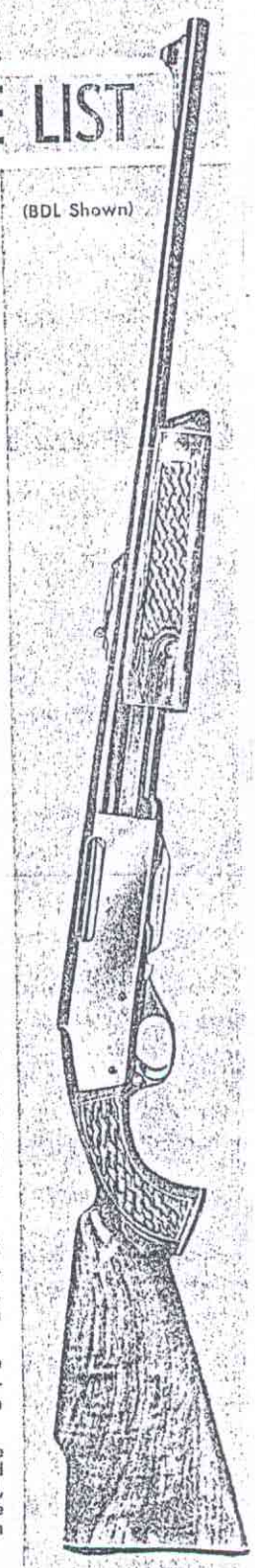


Fig. 2

If shots are too high, lower rear sight. If shots are too low, rear sight should be raised. If rifle shoots left, rear sight should be moved right by turning windage screw counter clockwise. Should rifle shoot to right, move rear sight to left, turning screw clockwise. Always move rear sight in direction you want rifle to shoot.

Information about trajectory or ballistics of your favorite load may be found in the Remington Firearms and Ammunition Catalog. A free copy may be obtained from Remington dealers or by writing to Remington Arms Co., Inc., 939 Barnum Ave., Bridgeport, Conn. 06600.

HANDLING — Wipe barrel, receiver, and all steel parts to prevent rusting. Invisible "prints" of moisture can cause rust unless removed. After cold weather use, when gun is returned to warm room temperature, condensation and wetness may form. Take care that this is removed. In particular wipe dry cartridge chamber in breech of barrel, barrel bore, breech bolt, and other action parts. Lubricate sparingly unless for storage, then lubrication should be quite thorough. For cold weather shooting, use dry graphite instead of light oil. Use sparingly — a clean gun performs best.



(BDL Shown)

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