September 21, 1970

The Honorable Edward M. Curran
Judge of the U.S. District Court
for the District of Columbia
Washington, D. C.

Dear Judge Curran:

Under date of September 14, 1970, William D. Ruckelhaus, Assistant Attorney General of the Department of Justice, wrote what amounts, among other things, to the encouragement that I register a formal complaint with you over the perjury committed by his assistant, David Anderson. Therefore, I do.

A year and a half of futility was consumed in seeking certain documents to which I am clearly entitled under the law. It began with my requests being unanswered. Then my lawyer, Mr. Bernard Fensterwald, Jr., was ignored. After that, promises made him were not kept, with consequent further delay. There then followed Department of Justice letters I must describe as lies, in which even existence of the documents was denied. So, I filed Civil Action 718-70. When that was about to come to trial, the Department of Justice blandly wrote my lawyer that they would make the documents available. They then delayed me further, first by not telling me how I could have access to these documents, then by stalling on copying them, and finally, as you may recall, by not providing some copies, paid for three months earlier, until the matter reached you.

During all this period, as I informed the Attorney General and his deputy, the Department wrote a number of letters, not one of which was truthful. All were designed to suppress, to violate the law, and to deny me that to which I am entitled. The Department knew I was writing a book saying and proving what it did not want said about the assassination of Dr. Martin Luther King, Jr., its investigation (which was by the Department, not State authorities), and the case of James Earl Ray.

Alleging purpose and intent may be questionable, no matter how certain I may be in my own mind. Alleging the result, however, is less questionable, for that is clear. It was first to frustrate my work, then to delay it (both prescribed by the Freedom of Information law and the clear intent of Congress), and to deny the defendant his rights.

When this matter finally reached you last month, only three requested items had not been delivered to me. These are the envelope in which that file is contained, a copy of one of the pictures, and the assurance,

from someone who could give such assurance, that I had been given access to the entire file.

When, on August 12, 1970, these things had still not been delivered, you told the Department that doing this would require but a few minutes and you ordered it done within a week. During that week, I neither received nor heard anything from the Department. On the eighth day after your order, on August 19, 1970, with the Department not even appearing before you, you signed a summary judgment.

However, in the interim, on August 14, Mr. Anderson filed a number of papers in this matter. One of them is an affidavit in the files of your court. It contains false statements that I believe, because they are the essence of materiality, are perjurious. One of these deals precisely with what was at issue before you, delivery of one of the items from the file in question. It says,

> "A copy of this file cover was delivered to plaintiff on August 12, 1970."

As he knew when he swore to this, Mr. Anderson, whom I met briefly and for the only time moments before you entered your court, delivered nothing to me. He had with him the file envelope itself, several Xerox copies of it, and the picture in question. He showed me the envelope, in the presence of several witnesses, but he did not "deliver" it to me, nor did he give it to me. He showed it to me, then took it back after I showed him that it had been carefully contrived to mask one of the entries which bears very heavily on the denial of his rights to James Earl Ray. Mr. Anderson then also had the picture with him. He then also refused to give it to me. Mr. Anderson, to this day, has never "delivered" or given me anything, nor has he ever written or telephoned me. There has been no other contact between us.

Establishing the truth of what I here tell you does not depend upon the word of those witnesses with me. Paul Valentine, a Washington Post reporter, also was present. I have since discussed this with him. He recalls that I was not given the copy in question, having seen my brief conversation with Mr. Anderson and having left the courtroom with me and then driven me to Mr. Fensterwald's office. Nor does proof of this perjury rest upon what must be obvious, that you would not have directed Mr. Anderson to do that which he had already done, or that he would have remained silent if you had.

Three days after this perjurious oath, Mr. Anderson's superior, Carl Eardley, Deputy Assistant Attorney General, wrote Mr. Fensterwald, pretending, as was his and the Department's wont in this matter, that you do not exist, that Civil Action No. 718-70 had not been filed, and that you had not issued an order to the Department:

> "Pursuant to your discussion with David J. Anderson of this office, we are forwarding copies of the file cover which you requested."

Thrice prior to this Mr. Eardley had denied, in writing, that this file cover exists. I can give you the letters. Yet it is he who personally told me, in Mr. Fensterwald's presence, when I handed him this cover and a written request for a copy of it, that it would not be given to me, so his false letters are not without point. I suggest that this bears on what I believe is contemptuous.

It was not pursuant to a non-existent discussion with my attorney that the file cover copy was, ultimately, forwarded, reaching me after you signed the summary judgment. It was pursuant to your order.

However, the essential point here is that Mr. Eardley's letter proves that the Department did not mail me the copy of the file envelope until three days after Mr. Anderson had sworn falsely that he had already delivered it.

Perjury climaxing a year and a half of deliberate and persistent violation of the law by the government, especially by the Department of the government whose responsibility it is to uphold the law and to defend the rights of all Americans under it, was too much. I wrote the Attorney General on August 20, sending you a carbon copy. I called this perjury to his attention, noted that, had it been me instead of his employee, he would have sought to have me punished, traced the history of this case and the damage done me, and called other things to his attention. The letter in answer, from Mr. Ruckelhaus, a copy of which is enclosed herewith, says only two things, responding to none of the others contained in this letter to the Attorney General or others I wrote.

It still fails to give meaningful assurance that I was given access to the entire file. Where the Deputy Attorney General, knowing it to be false, had twice written (his letters are attached to my complaint) that no such file exists, subsequent Department lies, in writing, establish the existence of at least three sets of this file. My request is, I believe, both normal and proper. It was not for a meaningless letter from a lawyer saying I had been given the entire file, something the lawyer has no way of knowing (and Mr. Anderson could not have been more specific on this point in conversation with Mr. Fensterwald, to whom he said he knew absolutely nothing about the file). It was for a statement from the custodian of the file, the only person who can know. Had I insisted upon this matter receiving a full airing, had it been my intention to embarrass the government, to expose its endless abuse of me and its endless lies, there would have been no question in court. I fail to see why, if the Department did make the entire file available to me, the purpose of the action in your court, it is unwilling for the only person who can so assure us to provide that assurance. Nor, especially with this history of never having written a single letter that does not contain lies, climaxing with open perjury, do I think the meaningless word of a man who proclaims he has no knowledge is either proper or satisfactory.

Aside from this, all Mr. Ruckelhaus says is that "if you have any further complaints or demands, I can only suggest that you address yourself to the Court", which I here do.

Besides the perjury of his subordinate, which, incredibly, Mr. Ruckelhaus tells me to call to your attention, there are other complaints I do have and I think can be remedied.

First of all, the copy of the picture ultimately provided was deliberately and with some trouble and cost, contrived to be as unclear as possible. It was not printed from the existing negative. Instead, the file itself was photographed, with all the fingerprints (including, no doubt, my own), all the lint and dust, faithfully reproduced. Even a part of the preceding page is copied, thereby hiding a corner of the picture. This print is also blotched by hasty drying. Thus, the evidence in the picture was deliberately obscured. I had asked and paid for a print made from the existing negative. I believe this also is what you ordered. There is a point to this deliberate obfuscation, for that picture makes incredible the official explanation of how the crime was committed. Therefore, the Department, which has an official position on the crime, does not desire this picture to be clear.

So that its contempt of your order would be masked, the Department did not mail me this picture with an accompanying letter. Instead, an "internal" memo form was used. It bears neither date nor signature and perpetuates the fiction that you had not issued two orders and I had not filed Civil Action No. 718-70. It was not mailed until after the summary judgment and then in a manner designed to hide this. The "internal" communication reads, "Photograph enclosed as per your request." The Name "H. Richard Rolapp" is typed at the bottom.

After receiving the picture on August 21, I wrote Mr. Rolapp asking for a clear copy. To date he has not responded, nor does Mr. Ruckelhaus claim to be responding to this letter. Mr. Rolapp is the assistant to the Deputy Attorney General, Richard Kleindienst. The law requires requests to be addressed to that office.

The Department's knowing violation of the law has cost me much. It has interfered with and delayed my writing and the printing of my book. It has cost me many days of time and has required about 20 trips to Washington, each one costing about 100 miles of driving and parking and other costs. It has taken much other time in needless correspondence.

If, as I understand, it is the basic tenet of the law that the violator may not profit from his transgression, I would also hope that it is the concept of American justice that the victim of the transgression should not be required to bear the costs thus imposed upon him. Mr. Ruckelhaus' letter, which does not address this, therefore instructs me to raise this question also with you.

Aside from this, all Mr. Ruckelhaus says is that

I am without funds for the hiring of counsel to press a claim for these costs. I hope justice is not dependent upon financial resources. And I believe that if this law, allegedly enacted to guarantee the freedom of information, is to have any meaning, to be other than a new means of official suppression, there must be some kind of mechanism for preventing and punishing the kinds of violations and abuse this case so clearly illustrates. If government can lie with impunity, refuse to respond to proper requests, contrive endless delays, ignore the order of a federal judge and, ultimately, commit perjury, and all the cost has to be borne by the citizen who asks only what he is entitled to under the law that allegedly guarantees this right, can the law have any meaning? Should the government, with impunity, be permitted to violate and vitiate the law? Can it commit perjury without qualm or fear of the workings of the law?

I feel it is my obligation to write you as I do. The law must apply equally to all. The government that properly complains about the crimes of citizens should not improperly commit crimes itself.

In my continuing work I have sought and must seek other improperly suppressed evidence. Again the government is making false representations, and again it is stalling and delaying responses, where they are made at all. Thus, again, I believe, the law is being violated. The resultant cost is an enormous burden to me. And I believe this constitutes an official interference with freedom of the press.

The record will show that I did and do everything possible to avoid unnecessary litigation. It is not my desire to burden the courts without need. However, I do want the law to work, to be effective, as I want government to be honest, and I do want to be able to do my writing without improper interference by government, in itself a great wrong in a society such as ours. I therefore respectfully request whatever help you and the law can provide, for paying lawyers' fees is now impossible for me.

Sincerely,

Harold Weisberg