

United States Attorney
District of Columbia

RECORDED ORIGINAL October 26, 1970

WDR:JTB:alrad
145-12-1449

William D. Swoboda
Assistant Attorney General, Civil Division
By: Richard F. Leathers
Chief, General Litigation Section

Harold Weisberg v. Department of Justice
U.S. D.C., Civil Action No. 2801-70

Attention: Mr. Robert Worley
Asst. U.S. Attorney

Mr. Tolson	✓
Mr. Sullivan	✓
Mr. Mohr	✓
Mr. Bishop	✓
Mr. Brennan, CD	✓
Mr. Callahan	✓
Mr. Casper	✓
Mr. Conrad	✓
Mr. Felt	✓
Mr. Gale	✓
Mr. Rosen	✓
Mr. Tavel	✓
Mr. Walters	✓
Mr. Soyars	✓
Tele. Room	✓
Miss Holmes	✓
Miss Gandy	✓

Thank you for sending us copies of Answer of Plaintiff to our motion in these proceedings. We suggested the basis for our motion in our September 3, 1970, September 21, 1970 and October 9, 1970 memoranda. As our October 9, 1970 memorandum explains, please file the affidavit executed by Special Agent Williams showing that the file pertaining to the assassination of President Kennedy plaintiff demands was compiled as part of FBI investigation. Congressional reports pertaining to 5 U.S.C. § 552 indicate that Congress intended to protect all such files by enactment of exemption 7. 3. Rep. No. 913, 91st Cong., 1st Sess., p. 3; House Report No. 1497, 91st Cong., 2nd Sess., p. 2; H. R. Thompson Corp. of America, 50 F.R.D. 130 (D.C. 1970).

We also suggest that you file a supplementary statement of material facts pursuant to Local Rule 9(h) incorporating the facts stated in the affidavit.

Please continue to send us copies of all papers filed and you are informed of all developments.

cc: Mr. J. Edgar Hoover
Director, Federal Bureau of Investigation
(w/copy of Answer of Plaintiff)

REC 74

62-1090606967

It is our intention to suggest that the FBI could not properly investigate the assassination of the President of the United States is wholly foreseeable and ought to be carried out of hand. In any event, the exemption 7 is applicable or not the file is compiled for law enforcement purposes and for that use. Only, if available may properly close with the conclusion no crime has been committed.

WDR:JTB:alrad

3 ENCLOSURE

OCT 6 1970

RECORDED

Section 174

Assassination of President John F. Kennedy

OCT 27 1970

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 12/18/73

FROM : Legal Counsel

SUBJECT: HAROLD WEISBERG v.
U.S. DEPARTMENT OF JUSTICE
FREEDOM OF INFORMATION ACT

- Asst. Dir. _____
- Adm. Serv. _____
- 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 _____

Attached is a copy of the decision of the United States Court of Appeals for the District of Columbia Circuit which was decided on 10/24/73 in captioned case.

Plaintiff in this civil action had requested under the Freedom of Information Act material from our investigative file relating to the assassination of the late President John F. Kennedy. Weisberg's request was denied and he subsequently filed a civil action in the United States District Court in Washington. His complaint was dismissed by the District Court and he appealed to the United States Circuit Court. The initial opinion by the Circuit Court was adverse to the Government in that it would require the Government to justify the withholding of information in investigative files on the basis that some ongoing investigative matter would be prejudiced by disclosure. The Government petitioned the Circuit Court for a hearing en banc, which was granted. The decision handed down on 10/24/73, with only Chief Judge Bazelon dissenting, interpreted the seventh exception in the Freedom of Information Act relating to investigatory files compiled for law enforcement purposes as covering all materials in an investigatory file. This decision will permit us to deny access to those materials which are clearly contained in one of our investigatory files.

UNRECORDED COPY FILED IN 100-3517-2

RECOMMENDATION:

None; for information.

Enc.

- 1 - Mr. Franck
- 2 - Mr. Mintz
- 1 - Mr. Williamson

Bufile: 62-100060

JLW:msl
(5)

54 JAN 9 1974

RECEIVED

JAN 7 1974

cc made ... Unit
12/21/73