

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

CIVIL ACTION NO. 75-1996

DEPARTMENT OF JUSTICE,

Defendant.

AFFIDAVIT OF E. ROSS BUCKLEY

I, E. ROSS BUCKLEY, being duly sworn, do hereby depose and say as follows:

(1) I am an attorney in the Legislation and Special Projects Section of the Criminal Division of the Department of Justice. My specific assignment at the present time, and commencing August 11, 1975, is Attorney in Charge, Freedom of Information/Privacy Act Unit. Prior to August 11, 1975, in addition to other duties, not relevant to the subject case, I was, and still am, Freedom of Information Control Officer for the Criminal Division.

(2) As Control Officer, my duties have been to act as liaison with other Divisions and Offices of the Department of Justice in the implementation of requests pursuant to the Freedom of Information Act, to receive such requests which are referred to the Criminal Division by the Office of the Deputy Attorney General and by other units of the Department, to assign such requests to the appropriate Sections of the Criminal Division which have primary interest or supervisory

cognizance of the subject matter of such requests, and to coordinate their responses. As Attorney in Charge of the Freedom of Information/Privacy Act Unit my duties are to supervise the processing of such requests, to review the responses of the Sections to which requests have been assigned, and to assure that the determination to withhold or to disclose records of the Criminal Division are proper and in accordance with the Freedom of Information Act, the Privacy Act and the applicable policies and regulations of the Department of Justice, and to assure that such responses are, to the extent possible, made timely. I also maintain copies of correspondence related to such requests which have been assigned to the Criminal Division for determination and response.

(3) As to the matters to which I attest herein, I testify on the basis of my personal knowledge, as well as knowledge acquired through the performance of my official duties.

(4) On December 29, 1975, the Office of the Deputy Attorney General referred to this Unit a letter signed by Mr. James Lesar seeking certain information from the Department of Justice relating to the assassination of Dr. Martin Luther King. I contacted an attorney in the General Crimes Section of the Criminal Division to determine whether the Criminal Division maintained files on the subject matter of the request. I was informed that the Criminal Division would not have opened a file on the death of Dr. King because the assassination could not represent a violation of any federal law enforced by the Criminal Division. I notified

the Office of the Deputy Attorney General of the results of my inquiry and suggested that the FOIA request be referred to the Civil Rights Division since any investigation relating to the assassination would have been conducted by that Division.

(5) On April 16, 1976 the Civil Rights Division referred 16 documents to the Criminal Division for consideration as to their release. On April 26, 1976 we released all 16 documents to Mr. Lesar. A copy of the letter releasing the documents is attached hereto as Exhibit A.

(6) On April 29, 1976 the Civil Rights Division referred four additional document for our review. On May 5, 1976 we released three of the document in their entirety and the fourth with deletions representing the names of persons who had testified before a Federal Grand Jury, claiming Exemption 3 of the FOIA, 5 U.S.C. 552(b)(3) and Rule 6(e) of the Federal Rules of Criminal Procedure. A copy of the letter dated May 5, 1976 releasing these documents is attached hereto as Exhibit B.

E. ROSS BUCKLEY

Sworn to and subscribed before me
on this _____ day of _____, 1976.

Notary Public

My Commission expires _____

EXHIBIT A

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FREEDOM OF INFORMATION
PRIVACY UNIT
CRIMINAL DIVISION

RECEIVED

James H. Hauser, Esquire
1231 Fourth Street, S. W.
Washington, D. C. 20024

Dear Mr. Hauser:

In processing your Freedom of Information request dated December 23, 1975, filed on behalf of your client, Mr. Harold Waisberg, the Civil Rights Division located the documents listed below which originated with, or were sent to, the Criminal Division.

1. Letter dated June 17, 1968, from Arthur J. Hanes to Attorney General, Ramsey Clark (1 page).
2. Letter dated June 25, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Arthur J. Hanes (1 page).
3. Letter dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Buford Ellington, Governor of Tennessee (1 page).
4. Letter dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to David Calcutt (1 page).
5. Letter dated August 2, 1968, from District Attorney, Phil M. Canale, Jr., to Assistant Attorney General, Fred M. Vinson, Jr. (1 page).
6. Letter dated August 8, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Governors Ellington and Hanes (2 pages).
7. Letter dated August 8, 1968, from Buford Ellington, Governor of Tennessee to Assistant Attorney General, Fred M. Vinson, Jr. (1 page).
8. Letter dated August 14, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to District Attorney, Phil M. Canale, Jr. (1 page).
9. Letter dated October 22, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Buford Ellington, Governor of Tennessee (1 page).

Records
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Hauser

Walter Barnett, Civil Rights

10. Letter dated November 4, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Michael C. Dooden and Co. (1 page).
11. Letter dated April 6, 1969, from Harold Weisberg to Carl W. Balchak, Chief, General Crimes Section (1 page).
12. Letter dated March 31, 1969, from Harold Weisberg to Carl Balchak, Chief, General Crimes Section (1 page).
13. Letter dated July 11, 1968, from Arthur J. Hanes to Attorney General, Ramsey Clark (1 page).
14. Letter dated July 16, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Arthur J. Hanes (1 page).
15. Memorandum dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to the Director of the FBI (1 page).
16. Letter dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to District Attorney, Phil M. Canale, Jr. (1 page).

In a memorandum dated April 16, 1976, these documents were referred to us for our consideration concerning their releasability. The Criminal Division has determined that these documents should be made available to you in their entirety and copies are attached hereto.

Sincerely,
RICHARD L. THORNBURG
Assistant Attorney General
CRIMINAL DIVISION

by:

E. KISS BUCKLEY
Attorney in Charge
FOI/Privacy Act Unit

Enclosures

May 5 1976

Mr. James H. Lesar, Esquire
1231 Fourth Street, S.W.
Washington, D.C. 20024

Dear Mr. Lesar:

This is in reference to our letter to you dated April 26, 1976, wherein we made available 16 documents which had been referred to us by the Civil Rights Division.

In a memorandum dated April 29, 1976, the Civil Rights Division indicated to us that they had located 4 additional documents which originated with, or were sent to, the Criminal Division, and which relate to your client's request. The following is a list of these documents together with our determination concerning their releasability.

Document 1 is a letter dated July 10, 1968, from Fred N. Vinson, Jr., Assistant Attorney General, to Arthur J. Hanes, Esquire; (1 page).

Document 2 is an undated letter from R.G. Sneyd, to Ramsey Clark, Attorney General; (1 page).

Document 3 is a letter dated November 1, 1968, from Phil H. Canale, Jr., to the Honorable Harold Shapiro; (2 pages).

The above documents numbered 1, 2, and 3 are being made available to you in their entirety, and are attached hereto.

Document 4 is a typed copy, dated June 14, 1968, of a message by Harold Shapiro; (1 page). This document is being made available to you subject to the deletion of the names of grand jury witnesses, pursuant to 6 U.S.C. §552(b)(3) [Rule 6(e), Federal Rules of Criminal Procedure].

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Pursuant to Title 5, United States Code, Section 552(a)(6)(A) and 28 Code of Federal Regulations, Section 16.7(a) you have a right to appeal this denial of your request. This appeal must be made within thirty days in writing and addressed to the Attorney General (Attention: Freedom of Information Appeals Unit) Department of Justice, Washington, D.C. 20530. The envelope and letter should be clearly marked, "Freedom of Information Appeal" or "Information Appeal". If on appeal your request is denied, judicial review will thereafter be available to you in the district in which you reside or have your principal place of business or the district in which the records denied to you are situated or the District of Columbia.

Sincerely,

ROBERT L. KEUCH
Acting Deputy Assistant
Attorney General