

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
 Plaintiff,)
)
 v.) Civil Action No. 75-1996
)
 U.S. DEPARTMENT OF JUSTICE,)
)
 Defendant.)
 _____)

DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION
FOR CERTIFICATION OF COMPLIANCE

Plaintiff filed a motion for certification of compliance seeking an order ". . . directing the Criminal Division, Civil Rights Division, and the Office of Professional Responsibility of the Department of Justice to certify under oath that they have complied with the request for records pertaining to the assassination of Dr. Martin Luther King, Jr. specified in plaintiff's amended complaint." [Emphasis added].

In response thereto, defendant by and through its counsel, submits the attached affidavits. First, with respect to the Civil Rights Division, defendant's counsel submits the affidavit of Mark L. Gross, Attorney, Appellate Section, Civil Rights Division, with attachments A through H. Also, subsequent to the signing of the affidavit, a letter has been sent to plaintiff's counsel and we have marked that letter as Government Exhibit 4, Attachment I. Also submitted with respect to the Civil Rights Division is the affidavit of Stephen Horn, Attorney, Civil Rights Division, who was given the initial assignment to review the Civil Rights Division files pertaining to the assassination of Dr. Martin Luther King, Jr. (Govern-

request. Thereafter, upon review of these documents by plaintiff's attorney, the Civil Rights Division furnished plaintiff a copy of 64 of the requested 120 documents (Government Exhibit 4, Attachment E). In addition, the Civil Rights Division recently reviewed additional documents responsive to plaintiff's request and by letter dated July 16, 1976, plaintiff was furnished a total of 111 pages responsive to the December 23, 1975 Freedom of Information Act request (Government Exhibit 4, Attachment I). As noted in this letter, there were certain deletions made with respect to several of the documents and plaintiff was informed in this letter he could appeal the denial of portions of the request to the Freedom of Information Appeals Unit of the Department of Justice (Ibid.).

With respect to the Criminal Division, defendant's counsel submits the affidavit of E. Ross Buckley, Attorney, Freedom of Information Control Officer for the Criminal Division (Government Exhibit 6, with two attachments). As Mr. Buckley's affidavit indicates, plaintiff's December 23, 1975 FOIA request was initially referred to the Criminal Division, but returned to the Deputy Attorney General's Office after an initial determination that the Criminal Division did not maintain a file on the subject matter of the request. Mr. Buckley suggested that the FOIA request be referred to the Civil Rights Division.

During the course of the Civil Rights Division review of their files, they found several documents which were originally issued by or sent to the Criminal Division which related principally to the extradition of James Earl Ray. Upon review by the Criminal Division, on April 26th, the Criminal Division released all 16 documents to plaintiff's attorney. In addition, the Civil Rights Division referred 4 additional documents for review by the Criminal

two attachments).

Finally, with respect to the Department of Justice Office of Professional Responsibility, we submit the affidavit of the head of the office, Michael E. Shaheen, Jr. (Government Exhibit 7). As indicated by Mr. Shaheen, plaintiff's December 23, 1975 FOIA requested was not submitted to the Office of Professional Responsibility and only recently was it brought to Mr. Shaheen's attention. As he indicates in his affidavit, there was no reason why under the regulations of the Department that plaintiff's request would have been submitted to his office since it was not a component of the Department of Justice which had a primary concern with the records requested.

In conclusion, defendant respectfully submits the attached affidavits of the two divisions and one office of the Department of Justice in response to plaintiff's motion for certification of compliance.

EARL J. SILBERT
United States Attorney

ROBERT N. FORD
Assistant United States Attorney

JOHN R. DUGAN
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing Defendant's Response to Plaintiff's Motion for Certification of Compliance has been mailed to the following on this 9th day of August, 1976:

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