

Mr. Allen McCreight
FOIAPA Chief
FBI
Washington, D.C. 20535

Rt. 12, Frederick, Md. 21701

Dear Mr. McCreight,

Enclosed is a copy of my letter to Ms. Barbara Harris of the State Department relating to your July 26 letter to me and the enclosures, records referred to State.

Thank you for the convenient numbering of these records. It made examination easier.

It would have been easier still and knowledge would not have been withheld if you had followed the Department practice of indicating the exemption claimed at the point of each withholding. For example, you make three claims to exemption with regard to Document 1. I am not told which is claimed to be applicable to any of the withholdings.

By a carbon copy I am appealing the withholdings in Documents 17 and 19. I do this not to obtain the information for myself but to try to avoid confusion and perhaps future injury that can be caused by guessing about the withholding. I have no idea why you withheld what is in the public domain, what in fact you have already released.

This, I note for the record, is another example of the frustration of the Act and the waste of time and money in processing the records from the FBI's steadfast refusal to consult the records it has to determine what is within the public domain before it goes to all the extra work of withholding. In this instance the indexes to books would have told you that the information is public if you did not want to consult your own releases.

With the standards that are supposed to apply in historical cases and especially under the standards of the Attorney General's statement of 5/5/77 there was neither need nor basis for withholding on Documents 17 and 19.

By this withholding you have also laid a basis for further criticism of the FBI, in the context of what I have difficulty believing, that the Byers record was lost in the St. Louis Field Office. The news accounts rejuvenate an account that is not new to me, that because of his special psychological makeup those to whom it was known aided James Earl Ray in his escape from McPen, intending to keep him on ice until there was need for one profiled as he had been.

I hope you will avoid the waste of time from a formal processing of this appeal and merely make unexpurgated copies available.

Although your stonewallers were pretty firm with regard to the Byers record and an entirely withheld index card when I asked Mr. Lesar to phone the FBI for these withheld records after reporters began to phone me regarding the Byers matter, I suggest that it would be appropriate for you to make immediate release of both. I am asking Mr. Lesar to raise this matter before the Court on August 14, at the coming calendar call. I should have received the record once it was "discovered." The index card, which may relate to one John Paul Spica, had only the name and perhaps a number withheld when the first copies were provided. Under your review, which was to eliminate unnecessary withholdings, you withheld this card in its entirety by stapling a piece of paper over the text of the card. If this really is a Spica card, it is now impossible not to read ulterior purpose into the unjustifiable withholding. I also remind you that although there is a specific request for all indices in my request, the FBI represented otherwise to the Court. It later provided these indices under discovery. I believe that this puts the attempt to memory-hole the index card in a different category.

It has taken close to two years to obtain these records you referred to the State Department. I would appreciate an explanation of this long delay or better, a copy of the letter(s) of referral. In this connection I question your statement that the referrals to other agencies have now all been provided. Sincerely, Harold Weisberg

Ms. Barbara Ennis
Freedom of Information Staff
Office of Public Affairs
Department of State
Washington, D.C. 20520

Rt. 12, Frederick, Md. 21701
7/28/78

Dear Ms. Ennis, Re King assassination records; C.A.75-1996 - appeal

In his letter dated July 26, 1978, with which Mr. Allen McCreight of the FBI forwarded processed copies of FBI records that had been referred to the Department of State, Mr. McCreight told me to address any questions to you.

After reading the records provided my first question is why those records relating to the extradition of James Earl Ray were not provided by the Department of State in response to my FOIA request or in compliance after I filed C.A. 718-70, in which the Department of State was a named defendant. It is my recollection that the Department did not provide a single record in that case.

This, of course, leads to my wondering when I will hear from the Department in response to my PA and FOIA requests with which it has not complied. I believe that I have appealed all of these. If by any chance I have not appealed any one, then this is that appeal, intended to cover all requests.

A new executive order on classification has been promulgated. It has new standards for classification and review. I believe it would be appropriate for these new standards to be observed with regard to those records withheld from me on claimed national security ground and because of the passing of time with some of them I now ask this.

From the records provided it would appear that almost no Embassies responded at the time of the King assassination because virtually no records have been provided in response to the FBI's request reflected in such records as Mr. McCreight's Document 4. If there are any other such records I would appreciate copies of them.

Document 6 is the London Embassy's cable stating with regard to a statement issued by the Attorney General that the text had been received by phone and "confirms its accuracy." My recollection is that there was factual inaccuracy in this statement and I ask for any records relevant to my recollection.

Documents 17 and 19 appear to be identical. Both withheld the name and other information relating to one who "stated that he had administered a lengthy psychological interview and test to James Earl Ray while he was a prisoner in Missouri." Claim is made to (b)(7)(D). I believe this to be inappropriate because unless the person whose name is withheld is a faker it is public knowledge that the test was administered and by whom. I believe this information is in records released by the FBI and in a number of books and newspaper articles. The information was released contemporaneously to the press. I believe my recollection that the person administering the test was interviewed by reporters. I believe that I quoted news accounts in my own book. But were this not true, I believe that under historical case standards this information should not be withheld. I ask for unexpurgated copies and any other relevant information. In this regard I call to your attention and Mr. McCreight's that there is currently considerable journalistic attention to what was leaked by some official that is related to psychological test in the Missouri jail. The story, attributed to one Byers' report that reached the FBI and was withheld by it, is that there was a search for a passy, Mr. Byers' word "pig." (I believe the reading was obsessive-compulsive.)

By a carbon copy I also appeal to the Department of Justice.

Sincerely,

Harold Weisberg