

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED
MAY 23 1980

HAROLD WEISBERG,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant

JAMES F. DAVEY, Clerk

Civil Action No. 75-1996

PLAINTIFF'S REPLY TO DEFENDANT'S MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY
JUDGMENT REGARDING TEN DOCUMENTS REFERRED TO CIA

In opposing Weisberg's motion for partial summary judgment regarding ten MURKIN records that are said to have been referred to the CIA for review, the Government makes no showing that any of the records sought are exempt from disclosure. Instead, the Government claims that nine of the ten referrals were "dealt with" in another of Weisberg's Freedom of Information Act lawsuits, Weisberg v. CIA, et al., Civil Action No. 75-1996 and that these ten documents "are CIA material and may not be released by the FBI. (Memorandum in Opposition, p. 2)

This case does not involve the same records that were sought in Civil Action No. 77-1997. That case involved CIA copies of CIA records; this one involves, inter alia, FBI copies of records in the FBI's MURKIN file. Even if the Government could show that the ten MURKIN records referred to the CIA that are presently at issue in this case are identical in content and phrasing to the ten documents allegedly "dealt with" by the CIA in Civil Action No. 77-1997, this would still not establish that the records are identical. For example, the CIA copy of a particular document may contain notations which are not present on the copy of the same document that is contained in the FBI's MURKIN files. At a minimum, the FBI copies should contain a MURKIN serial number that is not

contained in any of the records which the CIA has released to Mr. Weisberg. (See attached May 23, 1980 affidavit of James H. Lesar, ¶¶6-7)

Although four of the nine documents which the Government claims were "dealt with" in Civil Action No. 77-1997 were withheld in toto in that case,^{1/} the other five were released with some excisions. Insofar as the released content of these five documents is the same as that of the ten MURKIN referrals at issue here, there is no basis whatsoever for withholding these referrals. In addition, comparison of the ten MURKIN abstracts that have been withheld allegedly on the basis of referral to the CIA with the notes made by the staff of the Office of Professional Responsibility on the MURKIN serials they reviewed makes it evident that additional content in these serials was disclosed when the OPR notes were released in connection with Lesar v. Department of Justice, Civil Action No. 77-0692. That information also can not properly be withheld from the CIA referrals at issue here.

The Government's claim that the ten MURKIN referrals are "CIA material and may not be released by the FBI" is not well-founded. In point of fact, the FBI has in the past released CIA information to Weisberg after referring it to the CIA for review. (See May 23, 1980 Lesar Affidavit, ¶11) Moreover, as a matter of law the requirements of the Freedom of Information Act in regard to this are quite plain. 5 U.S.C. § 552(a)(3) provides that:

each agency upon any request which reasonably describes such records . . . shall make the records promptly available to any person.

^{1/} The CIA affidavits on file in Civil Action No. 77-1997 claim that as of May, 1978, Weisberg had been provided with all records responsive to his request in that case. The Liebenau affidavit filed in this case discloses that there was at least one that wasn't, the tenth document which Mr. Liebenau's April 30, 1980 affidavit says "is currently being reviewed for possible release. This discrepancy has been brought to the attention of the Court of Appeals in Weisberg v. CIA, et al., Case No. 79-1729 (orally argued May 19, 1980). Weisberg has yet to be informed by the CIA of the results of their review of this "tenth document," described by Liebenau as consisting of only three pages.

5 U.S.C. §552(c) indicates in no uncertain terms that agencies may not impose any limitations on the availability of information other than those expressly provided by the Act, stating:

This section does not authorize withholding of information or limit the availability of records to the public except as specifically stated in this section.

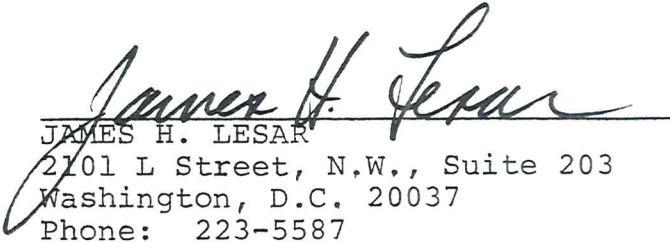
Furthermore, 5 U.S.C. § 552(a)(6)(B)(iii) provides that an agency may extend the time for responding to a request there is:

the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

In view of these provisions it is evident that the proper method of handling CIA referrals in this case was for the FBI to have conducted the consultation "with all practicable speed" and then to have responded to Weisberg in the context of this lawsuit. Instead of doing so, the FBI, after making no response at all for a period of years, now seeks to stonewall him further by asserting, in effect, that he must now sue the CIA to get these FBI MURKIN records.

In Founding Church of Scientology, Etc. v. Bell, 195 U.S.App. D.C. 363, 371, 603 F.2d 945, 953, n. 54 (1979), the Court of Appeals stated that "the agency that received the initial FOIA request retains responsibility for producing the document" While this was dicta, it is legally correct and this Court should require it to be the governing legal principle in this case.

Respectfully submitted,


JAMES H. LESAR
2101 L Street, N.W., Suite 203
Washington, D.C. 20037
Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of May, 1980, mailed a copy of the foregoing Plaintiff's Reply to Defendant's Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment Regarding Ten Documents Referred to CIA to Mr. William G. Cole, Attorney, Civil Division, Room 3137, U.S. Department of Justice, Washington, D.C. 20530.


JAMES H. LESAR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 77-1997
)	
CENTRAL INTELLIGENCE AGENCY,)	
<u>et al.</u> ,)	
)	
Defendants.)	

DOCUMENT DISPOSITION INDEX

James E. Ray Documents

<u>Document No.</u>	<u>Date</u>	<u>No. of Pages</u>
224	10 April 1968	2

Released with portions deleted.

Deleted portions contained:

- a. information received from a foreign liaison service (b)(1) and (b)(3),
- b. information which could identify an intelligence source (b)(1) and (b)(3),
- c. information pertaining to intelligence methods (b)(1) and (b)(3),
- d. information confirming the existence of a CIA installation in a named foreign country (b)(1) and (b)(3),
- e. information identifying CIA staff employees and organizational components (b)(3) and
- f. information, the release of which would constitute a clearly unwarranted invasion of the personal privacy of the individual named (b)(6).

The individual whose name was deleted on grounds of privacy was one who was momentarily mistaken for James E. Ray because of an "amazing resemblance" to Mr. Ray.

247

29 April 1968

2

Released with portions deleted.

Deleted portions contain:

- a. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- b. information identifying a CIA staff employee (b)(3),
- c. cryptonyms (b)(1) and (b)(3),
- d. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6) and
- e. information identifying CIA organizational components (b)(3).

The information deleted in the interest of privacy was information identifying an individual who may have contributed to what was known of Mr. James Ray's whereabouts while he was a fugitive.

248

1 May 1968

1

Released with portions deleted.

Deleted portions contain:

- a. information received from a foreign intelligence service (b)(1) and (b)(3),
- b. information confirming the existence of a CIA installation in a named city abroad (b)(1) and (b)(3),
- c. information identifying a CIA staff employee (b)(3) and
- d. information identifying CIA organizational components (b)(3).

249

3 May 1968

1

Denied in toto.

The document contains:

- a. information received from a foreign intelligence service (b)(1) and (b)(3),
- b. information which would identify an intelligence source (b)(1) and (b)(3),
- c. information confirming the existence of a CIA installation in a named city abroad (b)(1) and (b)(3),
- d. information identifying a CIA staff employee (b)(3),
- e. information identifying CIA organizational components (b)(3),
- f. cryptonyms (b)(1) and (b)(3) and
- g. information the release of which would constitute a clearly unwarranted invasion of personal privacy of the individual identified (b)(6).

The document is a cable from a CIA installation abroad. The document is exclusively confined to a recitation of information received from a foreign intelligence service and is exempt principally for that reason. The information in the message concerned an individual who resembled Mr. Ray.

250

14 May 1968

1

Denied in toto, the document contains:

- a. information received from a foreign intelligence service (b)(1) and (b)(3),
- b. information which would identify the intelligence source (b)(1) and (b)(3),
- c. information pertaining to intelligence methods (b)(1) and (b)(3),
- d. information confirming the existence of a CIA installation in a named city abroad (b)(1) and (b)(3),
- e. information identifying CIA staff employees (b)(3),
- f. information identifying CIA organizational components (b)(3) and
- g. information the release of which would constitute a clearly unwarranted invasion of the personal privacy of the person identified (b)(6).

This document transmitted the information contained in Document No. 249, to the FBI. The remarks made regarding that document apply to this one as well, except that this was a memorandum rather than a cable.

251

16 May 1968

2

Released with portions deleted.

Deleted portions contained:

- a. information received from a foreign intelligence service (b)(1) and (b)(3),
- b. information which would identify intelligence sources (b)(1) and (b)(3),
- c. information pertaining to intelligence methods (b)(1) and (b)(3),
- d. information confirming the existence of a CIA installation in a named city abroad (b)(1) and (b)(3),
- e. information identifying CIA staff employees (b)(3),
- f. information identifying CIA organizational components (b)(3) and
- g. information the release of which would constitute a clearly unwarranted invasion of the personal privacy of the individual identified (b)(6).

The individual whose name was deleted on grounds of privacy was one who was temporarily mistaken for Mr. Ray.

252

8 June 1968

2

Released with portions deleted.

Deleted portions contained:

- a. information confirming the existence of a CIA installation in a named city abroad (b)(1) and (b)(3),
- b. information identifying a CIA staff employee (b)(3),
- c. information identifying CIA organizational components (b)(3) and
- d. a cryptonym (b)(1) and (b)(3).

276

24 April 1968

2

Denied in toto.

Document contains:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which would identify an intelligence source (b)(1) and (b)(3),
- c. information pertaining to intelligence methods (b)(1) and (b)(3),
- d. information identifying a CIA staff employee (b)(3),
- e. cryptonyms (b)(1) and (b)(3),
- f. information identifying CIA organizational components (b)(3) and
- g. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

This document is solely concerned with information reported by a foreign liaison service and is exempt principally for that reason.

277

25 April 1968

2

Denied in toto.

Document contains:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which could identify an intelligence source (b)(1) and (b)(3),
- c. information identifying CIA staff employees (b)(3),
- d. information identifying CIA organizational components (b)(3) and
- e. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

This document is a copy of the message transmitting the contents of Document No. 276 to the FBI. All of the substance was received from a foreign liaison service and is exempt principally for that reason.

278

25 April 1968

1

Released with portions deleted.

Deleted portions contain:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which would identify an intelligence source (b)(1) and (b)(3),
- c. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- d. information identifying CIA staff employees (b)(3),
- e. cryptonyms (b)(1) and (b)(3),
- f. information identifying CIA organizational components (b)(3) and
- g. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

This document is a continuation of the communications contained in Document Nos. 276 and 277, the substance of which was exempt from release as it was received from a foreign liaison service. Reference to the substance of those documents has been deleted from this one as well for the same reason.

279

26 April 1968

6

Denied in toto

Document contains:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which would identify an intelligence source (b)(1) and (b)(3),
- c. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- d. cryptonyms and pseudonyms (b)(1) and (b)(3),
- e. information identifying CIA organizational components (b)(3) and
- f. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

This document contained the original document received from the liaison service which provided the basis for the documents immediately preceding (276, 277 and 278). It is withheld for the same basic reason.

280

28 April 1968

1

Released with portions deleted.

Deleted portions contain:

- a. information which would identify an intelligence source (b)(1) and (b)(3),
- b. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- c. information identifying a CIA staff employee (b)(3),
- d. cryptonyms (b)(1) and (b)(3),
- e. information identifying CIA organizational components (b)(3) and
- f. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

The person whose name has been deleted on grounds of privacy was one mistaken for Mr. James Ray.

281

30 April 1968

1

Released with portions deleted.

Deleted portions contain:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which would identify an intelligence source (b)(1) and (b)(3),
- c. information pertaining to intelligence methods (b)(1) and (b)(3),
- d. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- e. information identifying a CIA staff employee (b)(3),
- f. cryptonyms and pseudonyms (b)(1) and (b)(3),
- g. information identifying CIA organizational components (b)(3) and
- h. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

The individual whose name was deleted on the grounds of privacy was one who was mistaken for Mr. James Ray.

282 30 April 1968

1

Released with portions deleted.

Deleted portions contain:

- a. information pertaining to intelligence methods (b)(1) and (b)(3),
- b. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- c. information identifying CIA staff employees (b)(3),
- d. cryptonyms (b)(1) and (b)(3) and
- e. information identifying CIA organizational components (b)(3).

283 2 May 1968

10

Denied in toto.

Document contains:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which would identify an intelligence source (b)(1) and (b)(3),
- c. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- d. information identifying CIA staff employees (b)(3),
- e. information identifying CIA organizational components (b)(3) and
- f. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

This document is exclusively concerned with information received from a foreign liaison service which is exempt principally for that reason and which this document transmits to the FBI.

284 6 May 1968

2

Released with portions deleted.

Deleted portions contain:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information pertaining to a foreign liaison relationship (b)(1) and (b)(3),
- c. information which would identify an intelligence source (b)(1) and (b)(3),
- d. information pertaining to intelligence methods (b)(1) and (b)(3),
- e. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3) and
- f. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

The individual whose name was deleted on grounds of privacy was one who was mistaken for Mr. James Ray when he was a fugitive.

285 13 May 1968

2

Denied in toto.

Document contains:

- a. information which could identify an intelligence source (b)(1) and (b)(3),
- b. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3) and
- c. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

This document is a memo of transmittal to the FBI which conveys some information about an individual who was suspected of being James Ray when the latter was a fugitive.

286 24 May 1968

1

Denied in toto.

Document contains:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information pertaining to a foreign liaison relationship (b)(1) and (b)(3),
- c. information pertaining to intelligence methods (b)(1) and (b)(3),
- d. information confirming the existence of CIA stations in named cities abroad (b)(1) and (b)(3),
- e. information identifying a CIA staff employee (b)(3),
- f. cryptonyms (b)(1) and (b)(3) and
- g. information identifying CIA organizational components (b)(3).

This document is a one paragraph recitation of information received from a foreign liaison service: a negative report.

287 8 June 1968

1

Released with portions deleted.

Deleted portions contain:

- a. information pertaining to a foreign liaison relationship (b)(1) and (b)(3),
- b. information pertaining to intelligence methods (b)(1) and (b)(3),
- c. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- d. information identifying CIA staff employees (b)(3),
- e. cryptonyms (b)(1) and (b)(3) and
- f. information identifying organizational components (b)(3).

325 15 April 1968 1

Denied in toto.

Document contains:

- a. information from a foreign liaison service (b)(1) and (b)(3),
- b. information which could identify an intelligence source (b)(1) and (b)(3),
- c. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- d. cryptonyms (b)(1) and (b)(3) and
- e. information identifying CIA organizational components (b)(3).

This document is a cable from a CIA station abroad which is exempt principally because the substance of the message is information from a foreign liaison service.

326 18 April 1968 2

Released with portions deleted.

Deleted portions contain:

- a. information pertaining to intelligence methods (b)(1) and (b)(3),
- b. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- c. information identifying a CIA staff employee (b)(3) and
- d. information identifying CIA organizational components (b)(3).

327 25 April 1968 8

Released with portions deleted.

Deleted portions contain:

- a. information pertaining to intelligence methods (b)(1) and (b)(3),
- b. information confirming the existence of a CIA station in a named city abroad (b)(1) and (b)(3),
- c. information identifying a CIA staff employee (b)(3),
- d. cryptonyms (b)(1) and (b)(3),
- e. information identifying CIA organizational components (b)(3) and
- f. information the release of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).

The individual whose name was deleted on the grounds of privacy was one who was mistaken for Mr. J. Ray. The six deleted pages contain information concerning that individual as well as information revealing of intelligence methods used in collecting the information.

328 25 April 1968 1

Released in toto.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)	
)	
Plaintiff)	Civil Action
)	
v)	No. 77-1997
)	
CENTRAL INTELLIGENCE AGENCY,)	
et al.,)	
)	
Defendants)	

FILED
JAN 4 1979

JAMES H. DUNN, JR.

O P I N I O N

This is an action arising under the Freedom of Information Act, 5 U.S.C. §552, wherein the plaintiff, Harold Weisberg, seeks disclosure of several categories of records contained in the files of the Central Intelligence Agency (hereinafter CIA) pertaining to Dr. Martin Luther King and James Earl Ray. While processing plaintiff's FOIA request, the CIA located documents of the National Security Agency which were forwarded to that agency for direct response. Plaintiff amended his complaint to join the National Security Agency (hereinafter NSA). The matter is before the Court on defendants' motion for summary judgment.

The CIA located 373 documents in processing plaintiff's FOIA request. 238 documents have been released in their entirety, major portions of 104 documents were released and 31 are withheld in their entirety. The 22 NSA documents are withheld in their entirety. Plaintiff contends that 1) defendants have not accounted for every document maintained by the CIA that could be responsive to plaintiff's request; 2) the referred documents have not been received; and 3) withheld information is not properly classified pursuant to Exemptions 3 and 6.

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The CIA has met its burden in showing that all identifiable records pertaining to Dr. King and Mr. Ray have been located in this case. An affidavit supporting the motion for summary judgment states that all identifiable records have been retrieved from the CIA files, and the only way to improve upon the search would be to undertake a page-by-page review of all records in the CIA. The Court of Appeals for this Circuit recently reaffirmed that such a search was not intended by the FOIA, stating:

. . .the Agency's good faith would not be impugned unless there were some reason to believe that the supposed documents could be located without an unreasonably burdensome search. It is well established that an agency is not "required to reorganize [its] files in response to [a plaintiff's] request in the form in which it was made . . ." Goland, et al v CIA et al., Civil No. 76-1800 (D.C.Cir. May 23, 1978 at 26-27).

Here there is no reason to believe that the additional documents could be located without an unreasonable search. To the contrary, the CIA has located 373 documents, a large majority of which have been released in their entirety or with minor deletions.

Plaintiff's next contention is that documents referred to other agencies have not been accounted for by the defendants. In cases involving documents originating with another agency the Courts have abstained from making any determination regarding such documents when the originating party is not a named party. Church of Scientology of California v. Department of the Army, Civil No. CV 753056-F (C.D. California June 2, 1977); Founding Church of Scientology of Washington, D.C., Inc. v. Levi, Civil No. 75-1577 (D.D.C. January 24, 1978).

Plaintiff in his supplemental opposition cites a recent case in this court for the proposition that the defendant could not refer documents to the originating agency and that

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summary judgment would be inappropriate until the defendant agency processed the documents itself. Church of Scientology v. United States Department of the Air Force, C.A. No. 76-1008, April 12, 1978 (D.D.C.). In subsequent decisions this Court and the United States Court of Appeals for the District of Columbia have not followed the decision in Scientology. Goland v. CIA, supra; Serbian Eastern Orthodox Dioceses v. Central Intelligence Agency, Civil No. 77-1412 (D.D.C. July 13, 1978). Both decisions reaffirmed that the originating body should decide whether to make a document public and declined to follow a contrary course of action.

Plaintiff then asserts that Exemption 3^{1/} does not apply to the materials in question. He does not dispute that the statutes relied upon, 60 U.S.C. §§ 403(d)(3) and (g), Public Law 86-36 and 18 U.S.C. § 798 are Exemption 3 statutes. However, he contends that assertion of this exemption, at least with regard to the statutes relied upon,

1/ The pertinent portions of the statute are as follows:

- §552. Public information; agency rules, opinions, orders, records, and proceedings
- (a) Each agency shall make available to the public information as follows:
- (b) This section does not apply to matters that are
 - (3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
 - (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

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should somehow be contingent upon defendants' successful invocation of Exemption 1, citing Phillippi v. CIA, 546 F.2d 1009 at 1015 n.14 (D.C.Cir. 1976) for that proposition. In fact, the statement referred to in Phillippi indicated a possible overlapping between the two national security exemptions, suggesting that Exemption 1 may apply in addition to Exemption 3. Plaintiff's theory that Exemption 3 was intended by Congress to be subordinate to Exemption 1 was expressly rejected in Marks v. CIA, 426 F.Supp. 708 (D.D.C. 1976) in which the Court concluded that the two exemptions were independent rather than interdependent. Id at 710 n.5.

Finally, plaintiff contends that Exemption 6 does not apply to prevent disclosure of the names of several persons who were considered suspects because they allegedly resembled the supposed assassin of Dr. King, and he further asserts that there are reasons to doubt whether this information is private. According to supporting affidavits, the CIA has released the identity of individuals where it is apparent from the document that the information is published or otherwise a matter of public record. In the other cases, where the information was derogatory or potentially embarrassing and there was no indication that such information was public, the CIA has withheld this information. This is consistent with protecting the privacy of others as stated in Cervany v. CIA, 445 F.Supp 772 (D.Colō. 1978). In plaintiff's affidavit he suggests that defendants should engage in exhaustive research to corroborate whether each piece of information is in some form or another in the public domain. Recently, Judge Sirica of this Court stated in a

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case seeking documents pertaining to the assassination of President Kennedy:

Even if it is assumed for the sake of discussion that some of the withheld information has already been disclosed through unauthorized publication, that does not detract from the fact that the agency has not officially confirmed the accuracy of these disclosures. Fensterwald v. CIA, Civil No. 75-897 (D.D.C. July 12, 1978)

The same reasoning applies in this case, and the questioned documents are exempt from disclosure pursuant to Exemption 6.

Accordingly, there being no genuine issues of material fact in dispute, defendants' motion for summary judgment is granted.

United States District Judge

Dated: Jan 4, 1977

479

June 8, 1978

Mr. Harold Weisberg
Route 12 - Old Receiver Road
Frederick, Maryland 21701

1 - Mr. Mintz
Attn: Mr. Mathews

Dear Mr. Weisberg:

Enclosed herewith as Attachment A are ten pages of Murkin material which contain information that had previously been classified and was withheld. After a re-review of all classified information concerning the assassination of Dr. King, the following paragraphs were declassified:

- 44-38861-5510- paragraphs 2, 3, and 4. The date of this document remains classified. This decision was reviewed by the Department Review Committee, U.S. Department of Justice, and was upheld.
- 44-38861-5513- paragraph 2
- 157-9146-57- "Note" at bottom of page
- 157-1092-336- source notation after paragraph 3
- 157-6-28-1443- third and fourth source notations after paragraph 3
- 157-12709-127- page 3, paragraph 7. Page 1 of this document is attached to furnish you with the declassification stamp in the lower left corner.
- 170-1067-12- subject's name.

The following attachments are those documents which contain information received from other Government agencies and were referred to their respective agencies for review:

JUN 13 1978

SEE NOTE PAGE 4

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

CJB:vdp (8)
WAP
AHM
BPB

MAIL ROOM

FRUITT 6984

MAILED 7
JUN 8 1978
FBI

Mr. Harold Weisberg

- Attachment B- 1 document referred to Alcohol, Tobacco, and Firearms, U.S. Department of Treasury, consisting of 3 pages.
- Attachment C- 2 documents referred to the National Security Agency, consisting of 2 pages.
- Attachment D- 24 documents referred to the Civil Rights Division, U.S. Department of Justice, consisting of 104 pages.
- Attachment E- 17 documents referred to the Central Intelligence Agency, consisting of 35 pages.

Certain of the following subsections of Title 5, United States Code, Section 552, have been utilized to delete information from some of the documents in the five above-listed attachments:

- (b) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy;
- (b) (3) information specifically exempted from disclosure by statute;
- (b) (6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:
 - (A) interfere with law enforcement proceedings, including pending investigations;
 - (C) constitute an unwarranted invasion of the personal privacy of another person;

Mr. Harold Weisberg

- (D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means;

The statute for which subsection (b) (3) was cited in Attachment C (NSA referral) is Section 6, Public Law 86-36, which includes provisions which exempt the National Security Agency from statutory requirements involving disclosure of organizational and functional matters which should be protected in the interest of national defense.

A (b) (3) exemption was also claimed by the CIA in Attachment E, which applies to the Director's (CIA) statutory obligation to protect from disclosure intelligence sources and methods, as well as the organization, functions, names, official titles, salaries or numbers of personnel employed by the CIA in accordance with the National Security Act of 1947 and the CIA Act of 1949.

Where appropriate, the proper exemption has been listed for each document on the inventory worksheets accompanying each attachment.

All documents enclosed herewith have been reviewed under Administrative Appeal by a representative of the Office of Information and Privacy Appeals, U. S. Department of Justice.

CIA documents located in FBI files which relate to the Assassination of Dr. King have been returned to that agency for their direct response to you.

Twenty-three documents from the above-mentioned files which contain information received from the Department of State have been referred to that agency for their recommendations as to disclosure of this material. The Department of State is currently coordinating this referral and upon its completion, will return all the documents to us.

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After these documents are forwarded to you, it will complete the coordination and processing of all referrals as well as all the declassified information from the Murkin and related files.

Your patience and cooperation are appreciated.

Sincerely yours,

S
Allen E. McCreight, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Enclosures (5)

- 1 - James H. Lesar, Esq.
1231 Fourth Street, S.W.
Washington, D. C. 20004
- 1 - Assistant Attorney General
Civil Division
Attention: Ms. Betsy Ginsberg
- 1 - The Deputy Attorney General
Attention: Mr. Doug Mitchell

1 *Muntz*
after John Hall

NOTE: With this letter, Mr. Weisberg is being furnished the material which was declassified by DCRU prior to being reviewed by the Department Review Committee. With these documents is serial 170-1067-12, a 3-page NY airtel and LHM which is a see reference on the Invaders. There is no proof that Mr. Weisberg received this document with the other see references furnished to him. Since material in this reference has been declassified, he is being furnished the entire document at this time.

The DOJ Appeals Attorney who reviewed Attachments A through E under Administrative Appeal is Doug Mitchell.

Mr. Ken Strawberry, Department of State was contacted on May 18, May 26, and May 30, 1978, concerning the 23 documents referred to that agency by letter dated August 18, 1977. During the latter conversations, Mr. Strawberry advised that the documents had been split and were in several different offices of that agency. He stated that they

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are currently coordinating the documents and will be returned to us as soon as they have completed the package.