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Mr. Quinlan J. Shea, Director
FOIAPA Appeals
Department of Justice
Washington, D.C. 20530

Rt. 12, Frederick, Md. 21701
8/1/78

Dear Mr. Shea,

Your letter of July 27, 1978 reported steps your staff is taking to review the FBI's processing of the King assassination and related records in my C.A. 75-1996. As of the time I received your letter and the attached tabs I had not received a copy of the Government's Reply Memorandum and Supplemental Memorandum in Support of its motion for summary judgement in C.A. 77-1997. In going over the Reply Memorandum I have just come to t attached affidavit of FBI SA Martin Woods, executed July 12,1978. It is about this that I now write.

As you are aware I have also requested certain political records relating to Dr. King and his associates and organization. When a special projects unit of CBS-TV asked for three of the records included in my request I agreed to the proposal that these records be processed for CBS prior to the processing of all the records included in my request. Because I had (and have) no objection to CBS having access to these records before my request is met I did not give this matter further thought until reading SA Wood's affidavit and its attached Exhibit B, which is my 7/8/77 letter to the FBI relating to this request.

As my letter of 7/8/77 reflects through inadvertence in 1975 Mr. Lesar omitted the word "Cointelpro" in making my request. At that time other special FBI designation were not public knowledge "so I could not have specified them anyway." In 1975 I was much less familiar with FBI filing practises than I now am.

During Mr. Lesar's 1976 cross examination of FBI FOIA agents in C.A. 75-1996 they testified that the FBI does accept verbal requests. At a time thereafter that I do not recall but believe it is when I learned that the FBI felt the request did not include all of what I call the political material I made a verbal request for it which SA John Hartingh accepted. SA Hartingh was supervisor on the records in C.A. 75-1996.

ENCLOSURE

A little over a year ago, after I had offered to file a written request and had been told it was not necessary, the FBI asked that I make the request in writing. This request is my letter of 7/8/77, pursuant to several earlier discussions of this with the FBI agents working on the C.A. 75-1996 records.

During these discussions I was told that when the FBI finished segregating the records ordered sequestered in the Archives the remaining records would be processed for me. In part this is reflected in the second paragraph of my letter of 7/8/77. Because I was told that these records would be processed after Judge Smith's order was complied with I made no time demands, as my letter also reflects.

I am led to believe by SA Wood's affidavit that the FBI is considering the date of my letter as the date of request. I was under the impression that the processing was to be under C.A. 75-1996. If this is not the case then I believe that the processing should be in accord with the date of my first request. This is prior to 7/8/77.

It is clear in my mind that the processing was to have begun once Judge Smith's order was complied with. I believe the correspondence reflects this understanding and the FBI's failure to question or dispute my understanding.

My letter also refers to other requests for some or all of these records, as of before 7/8/77, and that based on my belief that I was a prior requestor via C.A. 75-1996, I volunteered to await this processing of the other requests to save the FBI time and money. (Paragraph 1.) The time estimate of the FBI, as of more than a year ago, was "several months." I believe a year is something longer than several months.

I now have FBI records indicating the processings of other requests without my being provided with any of those records. I believe that at the very least I should have been provided with those records that were processed and were given to others.

I am reminded of all of this by the extraordinary lapses of time included in SA Wood's affidavit. The FBI is not a respondent in C.A. 77-1997. The Reply Memorandum does not include other and relevant times. It also is not informative regarding the overlap with C.A. 75-1996.

Almost two years ago I began to received MURKIN records from the FBI. Throughout the processing of these records, as the worksheets show, the FBI referred documents to the CIA, State Department and other agencies. CIA referrals reached me only recently, with the 6/6/68 letter of Mr. McCreight. There were 15 documents of 35 pages only. (Mr. McCreight has not yet replied to my letter, of which I sent you a copy.) Referrals from State were mailed only a week ago, under date of 7/26/78.

Shortly before this sudden burst of compliance energy by the FBI the Civil Divisio filed a Motion for Summary Judgement in C.A. 77-1997, on 5/26/78.

By SA Wood's accounting of the CIA's referrals to the FBI in C.A. 77-1997, as of the time of the filing of this Motion the CIA had not yet locate d and sent to the FBI more ~~than~~ FBI records than it had sent to the FBI prior to filing the Motion. Prior to the filing of the Motion 27 documents were referred back to the FBI. By an undated letter received a month and a half after the filing of the Motion the CIA sent the FBI "43 documents and a listing of three additional documents..." These 46 records SA Wood states, are included in my request of the FBI for political records relating t Dr. King and others. Of all of these records, SA Wood states, only two have been sent

My request of the CIA was on 6/11/77. It ignored my request until I filed suit. T 12/2 and 8 and then on/12/12/77 it began dribbling FBI records back to the FBI, beginning with/10. Apparen coinciding with the preparation of the Motion for Summary Judgement, it sent one more 5/5/78. Then the 46.

All of these except two are still in DCRU. Some have been there since last year.

Of course I am concerned that Civil Division and CIA are so anxious to move to dismiss that they allege compliance prior to the completion of the long-overdue and still-incomplete searches. (More than one and a half times the number of FBI documents were found after the Motion was filed than prior to the filing, although it would appe that full compliance is a prerequisite for dismissal.)

I am also concerned that SA Wood avoids stating whether or not any of the other referred records are within my requests of the FBI, as would seem probable. From what

I have received to now I am surprised that none of the CIA's long-delayed processing of records the FBI began sending it in 1976 appears to have led the CIA to any of its own relevant records in compliance with the request of C.A. 77-1997.

As a prelude to what follows I remind you that the FBI rejected the suggestion of the judge in C.A. 75-1996 and instead of assigning free agents to this historical case, which required more agents, the FBI returned those of its Operation Onslaught to field offices. It also reassigned agents to Headquarters posts from the processing of records in that case. Obviously the rate of processing was considerably diminished and also obviously this extended to the political records.

More than a year ago I was willing to accomodate the FBI because of its FOIA pressures, even though from my experience these are largely of its own creation. It has not, for example, yet provided me with the single record I specified I wanted to be able to use then or just a few other relevant ones I did want for my writing. It has not yet provided Mr. Adams' statement to the Senate, which you told me several months ago it would send. That record should be readily retrievable, as should the FBI record Mr. Adams used in his prepared statement.

In combination the foregoing facts lead me to request that my appeal be acted upon before there can be any further development in C.A. 77-1997, in which the same Department that has not complied with this request is counsel to the CIA and is moving for summary judgement prior to compliance in that case.

Records already processed should be no problem. They should be readily available and require only xeroxing. Some of these records were processed long ago, as records I have establish. With regard to the other records, I would like a reasonable schedule because I believe it is relevant in C.A. 77-1997. (Of course the time permitted by the statyte is long past and the FBI has not even asked for an extension of time.)

I would also like to avoid the unseemly situation of C.A. 75-1448, in which I was not given on discovery what was in the files, as well as what is relevant in that case, a later requester being given what I still have not been given after several

The situation has changed since we last discussed the records involved in both cases. I then agreed not to press the FBI. However, the same Department has just supplemented its efforts to end C.A. 77-1997 even while admitting that its client had not located most of the admittedly relevant records prior to moving to dismiss. While I have been seeking to accomodate other components - in a case that goes back more than nine years - the Civil Division is applying difficult time presaures on me when it knows only too well that my counsel also is over-committed and when it knows that records referred to the FBI by the CIA last year have not yet been processed.

Under these circumstances I hope you can understand my renewal of my appeal and will agree to expedited processing. I believe the Reply Memorandum and Supplemental Memorandum in Support leave me no alternative.

Sincerely,

Harold Weisberg