UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

MOTION UNDER VAUGHN V. ROSEN TO REQUIRE
DETAILED JUSTIFICATION, ITEMIZATION AND INDEXING
BY OFFICE OF PROFESSIONAL RESPONSIBLITY

Plaintiff moves the Court for an order requring the Office of Professional Responsibility, Department of Justice, to provide, no later than October 1, 1977, a detailed justification for any allegations that the documents contained in Volumes XII-XXI of Appendix C to the Shaheen Report (See Exhibit 1) are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552, as amended by Pub. L. No. 93-502, 88 Stat. 1561, including an itemization and index which would correlate specific statements in such justification with actual portions of the requested documents.

Respectfully submitted,

James H. Lesar

JAMES HIRAM LESAR
910 Sixteenth Street, N. W. #600
Washington, D. C. 20006

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

MEMORANDUM OF POINTS AND AUTHORITIES

A little over a year ago, in response to plaintiff's motion that certain units of the Department of Justice certify that they had complied with plaintiff's Freedom of Information Act requests for documents pertaining to the assassination of Dr. Martin Luther King, Jr., defendant filed an affidavit by Mr. Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility. In his July 12, 1976 affidavit Mr. Shaheen swore:

> This office did not participate in the original investigation of Dr. King's death, and accordingly did not generate any records relating to the assassination. Our present review will be confined solely to the records of other components of the Department, namely the FBI and the Civil Rights Division. (See Exhibit 2)

This left the clear inference that plaintiff could obtain the documents he wanted from the FBI and the Civil Rights Division and that processing the OPR files would simply result in needless duplication.

This is false. Attached hereto as Exhibit 1 is an index to to Appendix C of the "Report of the Department of Justice Task Force To Review The FBI Martin Luther King, Jr., Security And Assasination Investigations" (The "Shaheen Report"). This index shows

that the OPR did amass a considerable volume of materials which are not contained in the 91 sections of the FBI's Central Headquarters files on the assassination of Dr. King and which have not been provided plaintiff by the Civil Rights Division. Among these are five volumes of documents which relate to the Memphis Police Department's investigation of Dr. King's murder. (See attached Exhibit 1, Volumes XIII-XVII of Appendix C to Shaheen Report)

These Memphis Police Department documents are without doubt among the more important records sought by plaintiff in this suit. By misrepresenting its acquisition of records pertinent to plaintiff's request which other components of the Department of Justice did not have, the OPR has delayed plaintiff's access to these records by more than a year. Because these records are of critical importance and there is no justifiable reason for withholding most of them, plaintiff asks that OPR be required to justify its withholding of them by October 1, 1977, and that OPR provide this Court and counsel for plaintiff with the detailed justification, itemization, and indexing contemplated by Vaughn v. Rosen, 484 F. 2nd 820, cert. denied, 415 U.S. 977 (1974) by that date.

Respectfully submitted,

James H. Lesar

JAMES HIRAM LESAR
910 16th Street, N. W., #600
Washington, D. C. 20006

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of August, 1977, hand-delivered a copy of the foregoing Motion Under Vaughn v. Rosen to Require a Detailed Justification, Itemization and Indexing by Office of Professional Responsibility to the office of Assistant United States Attorney John Dugan, Room 3419, United States Courthouse, Washington, D. C. 20001.

James H. Lesar

JAMES HIRAM LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

O R D E R

Upon consideration of plaintiff's Motion Under Vaughn v. Rosen To Require Detailed Justification, Itemization and Indexing By Office of Professional Responsibility, and the entire record herein, it is by the Court this _____ day of August, 1977, hereby

ORDERED, that the Office of Professional Responsibility of the Department of Justice shall deliver to this Court and to counsel for the plaintiff, no later than October 1, 1977, a detailed justification for its allegations that the documents contained in Volumes XII-XXI of Appendix C to the "Report of the Department of Justice Task Force To Review the FBI Martin Luther King, Jr., Security and Assassination Investigations" are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552, including an itemization and index which correlates specific statements in such justification with actual portions of the requested documents.

UNITED STATES DISTRICT COURT

Plaintiff's Exhibit 1 Civil Action No. 75-1996

UNITED STATES DEPARTMENT OF JUSTICE

OFFICE OF PROFESSIONAL RESPONSIBILITY
WASHINGTON, D.C. 20530

JUN 24 1977

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

Dear Mr. Lesar:

This is in reference to your June 7, 1977, request pursuant to the Freedom of Information Act for records referred to in the "Report of the Department of Justice Task Force to Review the FBI Martin Luther King, Jr., Security and Assassination Investigations". Reference is also made to my June 10, 1977, response to your March 10, 1977, request for all appendix material to that report.

Appendix C to the report is the repository for records which you are requesting. You will note that my June 10, 1977, letter denied Appendix C because the material contained therein is exempt from mandatory disclosure. However, it is the policy of the Department to make a discretionary release of documents where it is determined that such disclosure would not be detrimental to the Department's interest. In this spirit a second review of Appendix C has been conducted and a determination has been made to release the Appendix C Index, except for material classified pursuant to Executive Order 11652. A copy is enclosed. I wish to point out, however, that due to an inadvertent slip in the numbering of Appendix C volumes, there is no Volume XVIII.

This second review has also disclosed two documents in Volume XXI, Domestic Security Investigations and Reporting on Civil Disorders and Demonstrations Involving Federal Interest, which should have been provided in the June 10, 1977, response. I apologize for this oversight.

All other documents are denied. The applicable exemptions for Volumes I through XI and XXI are 5 U.S.C. §552(b)(1) and (5). For Volumes XII through XX, the exemption is 5 U.S.C. §552(b)(7)(D) Clause 2.

Should you wish to appeal the denial of portions of your request you may do so by writing, within thirty days, to the Attorney General (Attention: Freedom of Information Appeals Unit), United States Department of Justice, Washington, D. C. 20530. The envelope and letter should be clearly marked "Freedom of Information Appeal". Following review by the Department, judicial review of the decision of the Attorney General is available, pursuant to 5 U.S.C. §552(a)(4)(b), in the United States District Court in the judicial district in which you reside, in which you have your principal place of business, or in the District of Columbia.

Sincerely,

Michael E. Shaheen, Jr.

MICHAEL E. SHAHEEN, JR.
Counsel

INDEX TO APPENDIX C

Appendix C contains voluminous notes taken from FBI Files and other sources, records of the Memphis Police Department and letters of James Earl Ray to William Bradford Huie. These documents are being retained in the Office of Professional Responsibility and are summarized herein as follows:

Volume No.	Contents
I	MURKIN (HQ 44-38861)
II	MURKIN (Memphis Field Office: ME 44-1987)
III	Atlanta Field Office (MURKIN; MLK Security; COMINFIL-SCLC; CIRM; CPUSA-Negro Question; Miscel.; MLK Racial Matters and Coretta King).
IV	Field Office Files- Albany through Indianapolis (MURKIN; MLK Security; CIRM; CPUSA- Negro Question; COMINFIL-SCLC;
V	Field Office files- Jacksonville through St. Louis (MURKIN, MLK Security; CIRM; CPUSA-Negro Question; COMINFIL-SCLC;
VI	Martin Luther King, Jr., Security (HQ 100-106670)
VII	-
VIII	New York Field Office (MLK Security; COMINFIL-SCLC)
IX	CIRM (HQ 100-442529)
X	COMINFIL-SCLC (HQ 100-438794)
XI	CPUSA (HQ 100-3-116)
XII	James Earl Ray Handwritten Notes to William Bradford Huie

Volume No.	Contents
XIII	Memphis Police Department Statements- State vs. James Earl Ray
XIV	Memphis Police Department- James Earl Ray Supplements, Attorney General's Copy
XV	Memphis Police Department Follow Up Investigation of the Scene
XVI	Memphis Police Department Supplementary Report, James Earl Ray
XVII	Memphis Police Department Miscellaneous Records
XIX	Testimony of James Earl Ray; James Earl Ray v. James H. Rose, Warden, D.Ct. WD, Tenn. October, 1974.
XX	Testimony of John L. Ray, Jerry W. Ray and James Earl Ray; James Earl Ray v. James H. Rose, Warden, D.Ct. WD, Tenn. October, 1974
XXI	Miscellaneous

Plaintiff's Exhibit 2 Civil Action No. 75-1996

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v. CIVIL ACTION NO. 75-1996

DEPARTMENT OF JUSTICE,

Defendant.

AFFIDAVIT OF MICHAEL E. SHAHEEN, JR.

I, Michael E. Shaheen, being duly sworn, do hereby depose and state as follows:

1. I am head of the Justice Department's Office of Professional Responsibility.

2. On April 26, 1976, the Attorney General ordered this Office, under my direction, to undertake a review of all records in the Department of Justice concerning the Reverend Dr. Martin Luther King, Jr. The purpose of this review is to determine the thoroughness of the FBI's investigation of Dr. King's assassination, whether the FBI was involved in the assassination, whether any new evidence has come to the attention of the Department concerning the assassination, and whether the relationship between the Bureau and Dr. King calls for criminal proceedings or other disciplinary action.

3. In this connection, members of my staff have reviewed FBI documents both at FBI Headquarters in Washington, D. C. and the FBI's Memphis field office. This office did not participate in the original investigation of Dr. King's death, and accordingly did not generate any records relating

to the assassination. Our present review will be confined solely to the records of other components of the Department, namely the FBI and the Civil Rights Division.

4. I have been informed that Mr. James Lesar filed an Information Act request dated December 23, 1975 on behalf of his client, the plaintiff in the instant action, seeking numerous categories of information concerning the assassination of Dr. King. To my knowledge, this request was not forwarded to the Office of Professional Responsibility. There is no reason that it should have been. Under Justice Department regulations, we were not a component of the Department which had "primary concern with the records requested" inasmuch as we did not maintain records on the King assassination and did not become involved in any way with this subject matter until more than four months after the request was filed. 28 C.F.R. §16.4(a) (1975).

Michael E. Shaheen

MICHAEL E. SHAHEEN, JR.
Counsel
Office of Professional
Responsibility
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me, a Notary Public, on this 12th day of July, 1976.

Sharon Fulton
Notary Public

My Commission expires October 31, 1980