Department of Justice

Washington

June 30, 1976

M E M O R A N D U M

TO: Edward H. Levi,
Attorney General

FROM: Peter R. Taft, AAG
Land and Natural Resources Division

RE: Request of Estate of Dr. Martin Luther King, Jr.

As I understand it, the King Estate seeks access to materials on King which were turned over to the Church Committee and to any other materials dealing with King involving harassment or otherwise. The King Estate further seeks to play an affirmative role in the Department's investigations of the King assassination and of FBI harassment of King while he lived.

With respect to access to materials, I see no reason to change the normal substantive standards for providing access whether based on the Freedom on Information Act, Privacy Act, or any other rationale for access. The only exception I would make would be if Fred Folsom were to determine that disclosure of certain materials otherwise exempt would assist him in completing the investigations.

I would grant a priority in disclosure over the normal Freedom of Information Act waiting list if Fred Folsom believes that immediate access will assist him in completing the investigations. This would also provide the only role for the King Estate in the investigations which I consider appropriate. Clearly, private parties should not take an affirmative role in a Departmental investigation, especially one which could possibly conclude

44-38861-6132

in criminal referrals. Nonetheless, the King heirs could be extremely helpful in these investigations since they have knowledge about King's activities, associates, and enemies unavailable to the Department. The situation is not unlike that presented in Alderman v. United States, 394 U.S. 165 (1969), involving a defendant's right to examine logs of an illegal electronic surveillance, even though the government contended the subject matter was unrelated to the prosecution. The government wished to limit review to an in camera examination by the trial judge. The Court ordered the materials to be turned over to defendant, stating:

> An apparent innocent phrase, a chance remark, a reference to what appears to be a neutral person or event, the identity of a caller or the individual on the other end of a telephone, or even the manner of speaking or using words may have special significance to one who knows the more intimate facts of an accused's life. And yet that information may be wholly colorless and devoid of meaning to one less well acquainted with all the relevant circumstances. Unavoidably, this is a matter of judgment, but in our view the task is too complex, and the margin of error too great, to rely wholly on the in camera judgment of the trial court to identify those records which might have contributed to the Government's case. Id. at 182.

A similar ruling was entered in Dennis v. United States, 384 U.S. 855 (1966) with respect to the disclosure of grand jury minutes to the defendant, even though the government believed their content irrelevant to the prosecution or defense of the case. If the King Estate (and presumably the King heirs) had immediate access to those materials to which it is entitled, it could become an

important source of information and evaluation of government documents on behalf of the investigations. The need for immediate review of the materials in order to meet the immediate investigative needs, would be adequate grounds to place a priority on access for the Estate.

Finally, in my opinion, Martin Luther King, Jr. is already an important figure in the history and social fabric of our country. I believe it is important to protect his image as best as possible from the unwarranted dissemination of information from FBI files, some of which may have been illegally or improperly collected or used. I presume the Estate feels likewise. However, I can offer few suggestions in carrying out such a policy. For the sake of my own mental health, I have chosen to rely on the expertise of others to interpret the intricacies of the FOIA and Privacy Act.