

UNITED STATES GOVERNMENT

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director Sec'y _____

TO : Mr. J. B. Adams

FROM : Legal Counsel *JAM*
JK

SUBJECT: HAROLD WEISBERG
V. U. S. DEPARTMENT OF JUSTICE
(U.S.D.C., D. C.)
CIVIL ACTION NO. 75-1996

DATE: 3/25/76

PURPOSE:

The purpose of this memorandum is to advise of the results of the 3/23/76 meeting between plaintiff and his attorney and SAs Thomas L. Wiseman, (FOI-PA Section), John W. Kilty, (Laboratory Division), and Parle Thomas Blake, (Legal Counsel).

SYNOPSIS:

At a 3/23/76 meeting between plaintiff and FBI representatives, plaintiff reviewed all documents located at FBIHQ pursuant to his FOIA request for Murkin material, and indicated a strong belief that the FBI possessed additional material responsive to his request which we had not furnished him. There is a possibility he is correct in this contention, in that the Memphis Division may have material of this nature which was not forwarded to FBIHQ.

- 1 - Mr. Cochran
Attn: Mr. Kilty
- 1 - Mr. Gallagher
Attn: Mr. Helterhoff
- 1 - Mr. McDermott
Attn: Mr. Wiseman
- 1 - Mr. Moore
Attn: Mr. Gunn
- 1 - Mr. Mintz
- 1 - FOIA Litigation Unit
(Blake)

EX-115 197-184-X5
REC-42 ~~11-2111-57~~ 57

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(7)

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Memorandum to Mr. J. B. Adams
 Re: Harold Weisberg v. U. S. Department of Justice
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RECOMMENDATIONS:

*SA [unclear] h. [unclear]
 MEI [unclear] 9/24/76
 SA [unclear]
 FEIPA [unclear]
 by [unclear]*

(1) That the FOI-PA Section, Records Management Division, expeditiously furnish Memphis with copies of pertinent correspondence concerning plaintiff's FOIA request, and request Memphis to immediately review its files to locate any information in its possession not previously furnished to FBIHQ which might be within the scope of plaintiff's request. (This would be an exception to the FOI-PA Section's position that FBIHQ searches alone constitute sufficient compliance with respect to FOIA requests; however, this position is not considered tenable, given the facts in this case, and to attempt to defend it in this litigation could very well result in a precedent-setting adverse decision on this point.)

*B
 JP*

*AUSA [unclear] advised
 by SA [unclear] FOIALU,
 3/24/76 B*

(2) That AUSA John Dugan, District of Columbia, be requested to advise plaintiff through his attorney that the FBI, in order to insure that we have completely complied with plaintiff's request, is searching the files of the Memphis Field Office (the only logical remaining repository of information responsive to plaintiff's request), within 30 days. It should be noted that there is a status call in this case Friday morning, 3/26/76 and it would be very beneficial if Dugan relayed this message prior to then.

B

APPROVED: _____	Comp. Syst. _____	Laboratory _____
Assoc. Dir. _____	Ext. Affairs _____	Legal Coun. _____
Dep. AD Adm. _____	Gen. Inv. _____	Plan. & Eval. _____
Dep. AD Inv. _____	Ident. _____	Rec. Mgmt. _____
Asst. Dir.: _____	Inspection _____	Spec. Inv. _____
Admin. _____	Intell. _____	Training _____

** any material in which which releasable pursuant to E.O. 12958 will be made available...*

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DETAILS:

Plaintiff, through his attorney, James H. Lesar, (who is also an attorney for James Earl Ray), originally submitted an FOIA request to us for certain categories of material concerning our investigation of the King assassination, including "the results of any ballistics tests," and "all photographs from whatever source taken at the scene of the crime on April 4th or April 5th, 1968." After some delay, we denied this request, citing exemption (b) (7) (A) of the FOIA (investigatory records compiled for law enforcement purposes, the production of which would interfere with enforcement proceedings), inasmuch as James Earl Ray is currently appealing his conviction in the 6th Circuit. Plaintiff appealed this denial, and over the strenuous objections of the Department's Civil Rights Division and the FBI, Deputy Attorney General Tyler, in a letter to plaintiff's attorney dated 12/1/75 over-ruled our denial, and advised plaintiff's attorney that he was granting "access to every existing written document, photograph and sketch which I consider to be within the scope of Mr. Weisberg's request."

The Deputy Attorney General, in the same 12/1/75 letter, qualified the above grant of access by stating, "I have not included as matters for consideration the results of a great number of ballistics tests performed on rifles other than the one owned by Mr. Ray." He also stated, ". . . in addition, in an effort to save your client considerable expense, I have construed item number six (the request for 'all photographs' referred to above) so as not to encompass the several hundred photographs in Bureau files of Dr. King's clothes, the inside of the room rented by Mr. Ray, or various items of furniture and personal property." The Deputy Attorney General advised that if plaintiff did in fact desire this material, he should make a written request for same, agreeing to pay the reproduction and special search costs which would be involved.

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Plaintiff's attorney had been informally advised by a staff attorney in the Deputy Attorney General's office a week or so before this letter was sent as to what the general contents of the letter would be. At approximately the same time plaintiff instituted suit.

Plaintiff subsequently furnished the written assurance requested in Deputy Attorney General Tyler's letter that he did desire all ballistics tests and photographs, along with a promise to pay for the special search for this material, and, after the search was completed, this material was made available to plaintiff and his attorney for a review at FBIHQ on 3/23/76. Plaintiff and his attorney were met by SAs Wiseman and Blake and, after plaintiff tendered a check for \$141.00 covering the special search fees, the material was made available for their review.

During the course of reviewing this material, plaintiff strongly indicated his belief that he had not been furnished all the material in possession of the FBI falling within the scope of his request, and specifically indicated that he was positive that we would have more laboratory material and photographs than we had made available to him. He was politely but firmly advised that we had thoroughly reviewed the entire Murkin file at FBIHQ and made available to him all material located which could possibly be within the scope of his request and which could be released pursuant to the FOIA and Deputy Attorney General Tyler's 12/1/75 letter. When plaintiff continued to persist in his statements that the laboratory material was incomplete, SA Blake requested SA Kilty to join the meeting in an effort to convince plaintiff of the completeness of the laboratory material. SA Kilty was somewhat successful in this regard, although it is felt it would be impossible to ever convince plaintiff he has been furnished all material concerning this matter, in view of his previous and well-publicized statements that the government has engaged in a massive coverup in connection with both the King and J. F. Kennedy assassinations.

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Plaintiff also expressed concern that he had not been furnished all photographs pursuant to his request, and cited as an example the fact that "in the second most extensive investigation in the FBI's history" (plaintiff's words), we did not even possess photographs of the motel balcony on which King died, and the surrounding area. (It should be noted that plaintiff is correct in this contention, in that our search of FBIHQ files did not reveal any photographs of this nature.)

Plaintiff claimed at several points in the discussion to have information which would help us locate other material in our possession responsive to his request, and he was advised that we would very much appreciate his furnishing this information to us in written form to assist us in completely complying with his request. He offered to furnish this information orally, but we advised him that, inasmuch as the FBI is currently attempting to process thousands upon thousands of FOI-PA requests, it would be necessary for us to have this information in written form in order to insure that no errors would be made, and to assist our Reviewer-Analysts in processing his request. Although plaintiff did not specifically refuse to do so, he did not indicate that he planned to furnish this information in written form.

Plaintiff expressed his belief that, if this material which he "knew" we possessed was not located in FBIHQ files, then it most certainly would be located in appropriate field office files.

After indicating which of the documents made available to him he desired copies of, plaintiff concluded the meeting by stating that he was not interested in suing, harassing or embarrassing the FBI, but that he only wanted all information he had requested.

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On 3/24/76, SA Blake telephonically contacted SA Joseph Hester of the Memphis Division (who was case agent on Murkin and whose name is known to plaintiff), and Hester indicated that in all probability, Memphis could possess information responsive to plaintiff's request which was not furnished FBIHQ. Hester specifically mentioned newspaper photographs concerning the King assassination which he believed might be located in the Memphis file which presumably, would fall within the scope of plaintiff's request.

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