

FEB 12 1977
ATTORNEY GENERAL

JAMES H. LESAR
ATTORNEY AT LAW
1231 FOURTH STREET, S. W.
WASHINGTON, D. C. 20024
TELEPHONE (202) 484-8023

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U.S. DEPARTMENT
OF JUSTICE

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FREEDOM OF INFORMATION
AND PRIVACY ACT
February 15, 1977

FREEDOM OF INFORMATION REQUEST

The Deputy Attorney General
U. S. Department of Justice
Washington, D. C. 20530

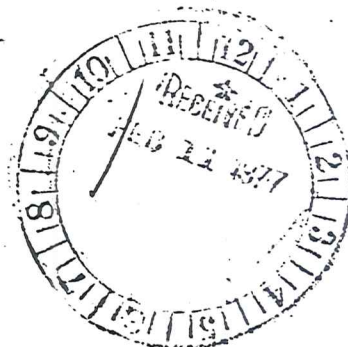
Dear Sir:

Under the Freedom of Information Act, 5 U.S.C. §552, I am requesting that I be provided with copies of the following records:

1. Any orders, memorandums, or directives instructing the Civil Rights Division to review the investigation into the assassination of Dr. Martin Luther King, Jr.
2. The report made by Assistant Attorney General J. Stanley Pottinger on the 1975-1976 review which the Civil Rights Division conducted of the King assassination.
3. Any press release relating to a review by the Civil Rights Division of the King assassination.
4. Any orders, memorandums, or directives instructing the Office of Professional Responsibility to review the investigation of Dr. King's assassination.
5. Any orders, memorandums, or directives to the Project Team which conducted the review of Dr. King's assassination for the Office of Professional Responsibility.
6. The 148 page report by the Office of Professional Responsibility on its review of the King assassination.

Sincerely yours,

James H. Lesar
James H. Lesar



Lesar

E X H I B I T E



UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF PROFESSIONAL RESPONSIBILITY
WASHINGTON, D.C. 20530

FEB 23 1977

James H. Lesar
Attorney at Law
1231 Fourth Street, S.W.
Washington, D. C. 20024

Dear Mr. Lesar:

This is in response to Freedom of Information Act requests 4-6 of your letter to the Deputy Attorney General dated February 7, 1977.

In response to item 4, enclosed is a memorandum from Attorney General Levi dated April 26, 1976, instructing this Office to complete the review of the FBI's investigation of the assassination of Dr. King.

In response to item 5, no written orders, memoranda or directives were given to the Project Team, except for the memorandum from the Attorney General referred to in item 4.

In response to item 6, enclosed is the report prepared by this Office on the FBI's investigation of the assassination of Dr. King.

Sincerely,

MICHAEL E. SHAHEEN, JR.
Counsel

Copies to: Freedom of Information Units
FBI, Civil Rights Division
Criminal Division

Attn: James Powers, FBI
Walter Barnett, CRD
Ross Buckley, Crim



E X H I B I T F

Plaintiff's Exhibit 5

JAMES H. LESAR
ATTORNEY AT LAW
910 SIXTEENTH STREET, N. W. SUITE 600
WASHINGTON, D. C. 20006
TELEPHONE (202) 225-5587

March 10, 1977

FREEDOM OF INFORMATION APPEAL

Mr. Griffin Bell
Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Bell:

By letter dated March 9, 1977, a copy of which is enclosed herein, Mr. James P. Turner, Deputy Assistant Attorney General, Civil Rights Division, has denied Item 2 of my Freedom of Information Act request of February 7, 1977. I hereby appeal that denial.

I note that Mr. Turner states that the materials requested in Item 2 of my request have been classified under Executive Order 11652. I would appreciate it if you could inform me as to the provision(s) of Executive Order 11652 under which these documents were classified, who classified them, and the date of classification.

By letter dated February 23, 1977, Mr. Michael Shaheen, Jr., of the Office of Professional Responsibility, responded to Items 4-6 of my February 7, 1977, Freedom of Information Act request. Although Mr. Shaheen did send me a copy of the report prepared under his direction which I requested in Item 6, the copy which I was provided does not contain any of the material in Appendix B to that report. I intended my Freedom of Information Act request to include all appendix material. I hereby appeal this de facto denial of the material in Appendix B which was deleted from the copy of the report sent me. I also appeal from the deletions made in the materials contained in Appendix A of this report.

Sincerely yours,


James H. Lesar

E X H I B I T G

Exhibit G

JUN 10 1977

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

Dear Mr. Lesar:

This is in response to your March 10, 1977, request pursuant to the Freedom of Information Act for all appendix material to the Department's Martin Luther King, Jr., Task Force Report.

We note that your March 10 letter acknowledges receipt of the King Report in response to Item 6 of your February 7, 1977, Freedom of Information Act request. However, you consider such response, without appendix material, to be a "de facto denial" from which you appeal. You should know that since your Item 6 was a request for "(T)he 148 page report", appendix material was considered outside the scope of the request. Nevertheless, we are treating your March 10 letter of appeal as a request under the Freedom of Information Act for all appendix material.

The King Report carries Appendicies A, B and C. Appendix A has already been provided to you in my February 23, 1977, response. Material deleted from Appendix A is not being provided and is exempt from mandatory disclosure pursuant to 5 U.S.C. §552(b)(1) or (5) or (7)(c).

Appendix B has been reviewed and is provided with some deletions. Deletions have been made where material is exempt from mandatory disclosure pursuant to 5 U.S.C. §552(b)(1) or (5) or (7)(c).

- 2 -

Appendix C is not being provided. Material contained in the appendix is exempt from mandatory disclosure pursuant to 5 U.S.C. §552(b)(1) and (5).

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.
Counsel

E X H I B I T H



OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

NOV 2 1977

James H. Lesar, Esquire
1231 4th Street, S. W.
Washington, D. C. 20024

Dear Mr. Lesar:

You appealed from the actions of Deputy Assistant Attorney General James P. Turner and Counsel Michael E. Shaheen, Jr., on your request for access to specific records pertaining to the reviews by the Civil Rights Division and the Office of Professional Responsibility of the investigation by the F.B.I. of the assassination of Dr. Martin Luther King, Jr.

You will now be provided the two Civil Rights Division documents within the scope of your appeal, subject to certain limited excisions. Subsequent to Mr. Turner's action on your request, the Civil Rights Division declassified most of the information in these documents. The declassified information will now be made available to you directly by the Division, subject only to excisions of information the disclosure of which would constitute an unwarranted invasion of the privacy of certain third persons or of Dr. King's immediate family. 5 U.S.C. 552(b)(7)(C). The remaining classified information has been found by the Department Review Committee to warrant continued classification under sections 5(B)(2) and (3) of Executive Order 11652 and will continue to be withheld pursuant to 5 U.S.C. 552(b)(1).

The appendices to the "Report of the Department of Justice Task Force to Review the F.B.I. Martin Luther King, Jr., Security and Assassination Investigations" will also be made available to you, subject to certain excisions. The classified information in each appendix has been found by the Department Review Committee to warrant continued classification under sections 5(B)(2) and (3) of Executive Order 11652. This classified material will also continue to be withheld pursuant to 5 U.S.C. 552(b)(1).

Exhibits 8 and 11 of Appendix "A" will be released to you again, this time with fewer excisions. Exhibit 9 will be provided in its entirety and exhibit 12 will be released for the first time, subject to certain excisions. **RECEIVED** Minor excisions were

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Office of
Professional Responsibility

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made in exhibits 7 and 12 to protect the personal privacy of other individuals against unwarranted invasion. 5 U.S.C. 552(b)(7)(C). The classified information in exhibits 8, 11, 12, 17 and 18 is being withheld on the basis of 5 U.S.C. 552(b)(1). Every page of Appendix "B" has already been released to you. Eight pages will be released to you again, however, with no excisions. The other pages of Appendix "B" were properly released with excisions of classified information or material which would cause an unwarranted invasion of the privacy of third persons. 5 U.S.C. 552(b)(1) and (7)(C). Names of Special Agents of the F.B.I. were also withheld. 5 U.S.C. 552(b)(7)(C).

Appendix "C" encompasses twenty volumes, fourteen of which will now be made available to you, in whole or in part. Volumes I through XI and XXI [there is no volume XVIII -- the index to Appendix "C" was incorrectly numbered] contain brief one or two sentence summaries of each F.B.I. and D.O.J. document reviewed by the Task Force. Certain material in Volume XXI which originated with the United States Information Agency is being referred to the Department of State for consideration and direct response to you. Volume VII and certain materials in Volumes I through VI, VIII through XI and XXI are being withheld to protect specific administrative markings which cannot be released to you without actual harm to the operational capability of the F.B.I., the names of Special Agents, the privacy of certain third persons against unwarranted invasions, and the identities of confidential sources. 5 U.S.C. 552(b)(2), (7)(C) and (7)(D).

Volume XII contains the letters and notes (142 pages) sent to William Bradford Huie by James Earl Ray. I have been advised that these documents are a matter of public record and that you already have a copy of each of them. Should you desire an additional copy, this Department will make them available at the rate of ten cents per page. Volumes XIX and XX are also a matter of public record, as they contain the transcripts of the testimony given by James Earl Ray, John L. Ray and Jerry W. Ray in the case of James Earl Ray v. James H. Rose, Warden, United States District Court for the Western District of Tennessee, Western Division, October 1974. If you desire copies, they can be obtained by writing to the Clerk of that Court. Should you prefer to have this Department furnish them to you, however, copies of these transcripts (574 pages) will be made available at the same rate of ten cents per page.

The Memphis Police Department documents comprise Volumes XIII through XVII. As the information is of a confidential nature and was provided in confidence, these volumes will continue to be withheld in their entirety. 5 U.S.C. 552(b)(7)(D).

Judicial review of my action on these administrative appeals is available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, which is also where the records you seek are located.

Sincerely,

Peter F. Flaherty
Deputy Attorney General

By:

Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

UNITED STATES GOVERNMENT

Memorandum

TO : Peter F. Flaherty
Deputy Attorney General

DATE:

FROM : Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

SUBJECT: Administrative Appeal of James H. Lesar, Esquire

Mr. Lesar requested access to all documents maintained by the Civil Rights Division and the Office of Professional Responsibility pertaining to their reviews of the investigation by the F.B.I. of the assassination of Dr. Martin Luther King, Jr. There will now be substantial supplemental releases by both components. All remaining classified information has been upheld by the D.R.C. Other excisions were made to protect the existence of Bureau files on other individuals and the privacy of Dr. King's family. Any references to Dr. King's marital and extramarital relations were withheld, as was information relating to another individual's unusual sexual preferences.

Exemption 7(C) was also asserted to withhold the residence addresses and telephone numbers of certain individuals interviewed by the Task Force and the names of Special Agents. Although it is known that the Memphis Police Department furnished the Office of Professional Responsibility with copies of its reports, the contents are still confidential and, therefore, the reports have been withheld in their entirety on the basis of the second clause of 7(D). The Memphis Police Department has been consulted and strenuously objects to our release of any of its documents.

The fact that the Bureau had an extensive security investigation concerning [redacted], a principal advisor to Dr. King, could enable a knowledgeable person to determine the reasons for such investigation -- which are currently classified "Top Secret" to protect a highly sensitive source. Any unclassified references to and discussions of the [redacted] security files should, therefore, be withheld not only to protect his privacy, but also to protect the content of the classified information.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

E X H I B I T A

Memorandum

Michael Shaheen

DATE: April 26, 1976

Attorney General *JS*

I am forwarding to you the memorandum prepared by Assistant Attorney General Pottinger and by Robert A. Murphy, Chief of the Criminal Section of the Civil Rights Division, on the partial review which has been made of the relationships to Martin Luther King, Jr. In addition, I include the commenting memoranda from the Deputy Attorney General, from Robert Bork, from Richard Thornburgh and the members of his staff, and from Antonin Scalia.

I note that Mr. Pottinger concludes that "we have not found a basis to believe that the FBI in any way caused the death of Martin Luther King" and that "we have also found no evidence that the FBI's investigation of the assassination of Martin Luther King was not thorough and honest."

My request for the review involved four matters. First, whether the FBI investigation of the Dr. Martin Luther King's assassination was thorough and honest; second, whether there was any evidence that the FBI was involved in the assassination of Dr. King; third, in light of the first two questions, whether there is any new evidence which has come to the attention of the Department concerning the assassination of Dr. King which should be dealt with by the appropriate authorities; fourth, whether the nature of the relationship between the Bureau and Dr. King calls for criminal prosecution, disciplinary proceedings, or other appropriate action.

As to the fourth point, I again note that from the partial review which has been made, Mr. Pottinger concludes "we have found that the FBI undertook a systematic program of harassment of Martin Luther King, by means both legal and illegal, in order to discredit him and harm both him and the movement he led." Assuming that the major statutory violations relevant to this conduct would be 18 U.S.C. § 241 and § 242, Mr. Pottinger's memorandum concludes that any prosecution contemplated under those acts would now be barred by the five-year statute of limitations with the possible exception which would exist if there were proof of a continuing conspiracy.

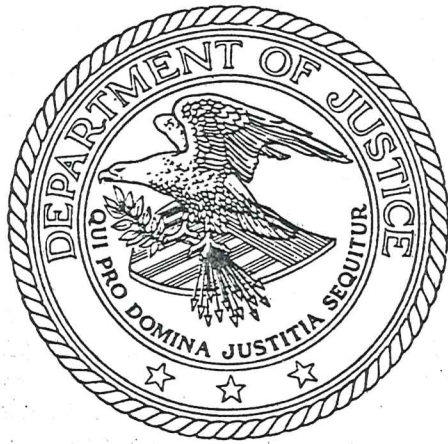
Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

As to the matter of new evidence with respect to the assassination, my understanding is that the Department has never closed the Martin Luther King file and that numerous allegations of the possible involvement of co-conspirators are promptly investigated. The thrust of the review which I requested, however, was to determine whether a new look at what was done by the Bureau in investigating the assassination or in the relationship between the Bureau and Dr. King might give a different emphasis or new clues in any way to the question of involvement in that crime. At this point in the review, as I read the memoranda, nothing has turned up relevant on this latter point.

The review is not complete. Mr. Pottinger and all those who have commented upon his memorandum recommend that the review be completed. Mr. Pottinger also has made other recommendations upon which there is some difference of opinion. In my view, it is essential that the review be completed as soon as possible and in as thorough a manner as is required to answer the basic questions. In view of what has already been done, and the tentative conclusions reached, special emphasis should be given to the fourth question. In conducting this review you should call upon the Department to furnish to you the staff you need.

My conclusion as to the review conducted by the Civil Rights Division is that it has now shown that this complete review is necessary, particularly in view of the conclusion as to the systematic program of harassment. If your review turns up matters for specific action, we should discuss the best way to proceed on each such case.

E X H I B I T B



REPORT OF THE DEPARTMENT OF JUSTICE

TASK FORCE TO REVIEW THE FBI MARTIN LUTHER KING, JR.,

SECURITY AND ASSASSINATION INVESTIGATIONS

January 11, 1977

E X H I B I T C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JAN 6 1977

BERNARD S. LEE,
Plaintiff

JAMES F. DAVEY, Clerk
Civil Action

No. 76 - 1185

v.
CLARENCE M. KELLEY, et al.,
Defendants

SOUTHERN CHRISTIAN LEADERSHIP
CONFERENCE,
Plaintiff

Civil Action

No. 76 - 1185

v.
CLARENCE M. KELLEY, et al.,
Defendants

MEMORANDUM OPINION AND ORDER

Bernard Lee, former assistant to Dr. Martin Luther King, and the Southern Christian Leadership Conference (SCLC), headed by Dr. King until his death in 1968, are suing Clarence Kelley, Cartha DeLoach, William Sullivan, John Mohr (executor of the estate of Clyde Tolson), and two unknown (and unserved) FBI agents for violation of rights guaranteed them under the First, Fourth, and Fifth Amendments to the Constitution of the United States. Specifically, Lee alleges that defendants surreptitiously tape-recorded his conversations in a room at the Willard Hotel in 1963 and that a copy of the tape was sent to Mrs. King in 1964. He further contends that other of his conversations have unlawfully been recorded since that time,

including some after the enactment, in 1968, of Title III of the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. §§2510-2520. SCIC complains that, "beginning in 1963 and ending in the Fall of 1968", defendants eavesdropped on the conversations of the organization's employees. It too contends that recordings of these conversations have been made available to the news media and others outside the FBI. Both plaintiffs seek money damages and request that all records of the monitored conversations be destroyed or impounded.

Defendants' Motions to Dismiss, now before the Court, raise several substantial defenses. However, in view of the fact that the Court now finds the damage claims to be barred by the statute of limitations, consideration of the other defenses is pretermitted.

When suing either under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), or under Title III, plaintiffs are governed by the most analogous statute of limitations of the state in which the Court sits: Holmberg v. Armbrecht, 327 U.S. 392, 395 (1946); Johnson v. Railway Express Agency, Inc., 421 U.S. 454 (1975); Ernst & Ernst v. Hochfelder, 44 U.S.L.W. 4451-4459n.29 (1976); Forrestal Village, Inc. v. Graham, No. 76-1314 (D.C.Cir. January 13, 1977). In this case, the three-year District of Columbia statute controls. Pub.L.88-241, 77 Stat. 509, 12 D.C. Code §301(8). The statute began to run when plaintiffs actually discovered, or in the exercise of due diligence should have discovered, the operative facts of the cause of action. See Lewis v. Denison, 2 App.D.C.

387 (1894); Holmberg v. Armbrecht, supra.

Starting in the mid-1960s and reaching a peak in 1968 and 1969, at the time of former Attorney General Robert Kennedy's campaign for the Presidency and thereafter, the nation's leading newspapers were rife with accounts of buggings of Dr. King. See Exhibit A to Federal Defendants' Motion to Dismiss. Under these circumstances, plaintiffs' avowal that they had no knowledge of the source of the tapes until the 1975 report by the Senate Select Committee on the FBI is not well taken. Accordingly, the motions to dismiss the amended complaints are granted.

With reference to the custody of the intercepted conversations, an inventory of all such records shall be presented to the Court, and the records themselves shall be turned over, under seal, to the Archivist of the United States. See 44 U.S.C. §2101 et seq.

Therefore, it is by the Court this 3/2nd day of January 1977.

ORDERED that the Motions by defendants Clarence M. Kelley, Cartha DeLoach, William C. Sullivan and John P. Mohr to dismiss the Amended Complaints be, and the same hereby are, granted; and it is further

ORDERED that, within ninety (90) days of the date of the entry of this Order, the Federal Bureau of Investigation shall assemble at its headquarters in Washington, D.C., all known copies of the recorded tapes, and transcripts thereof, resulting from the FBI's microphonic surveillance, between 1963 and 1968, of the plaintiffs' former president, Martin

Luther King, Jr.; and all known copies of the tapes, transcripts and logs resulting from the FBI's telephone wire-tapping, between 1963 and 1968, of the plaintiffs' offices in Atlanta, Georgia and New York, New York, the home of Martin Luther King, Jr., and places of public accommodation occupied by Martin Luther King, Jr.; and it is further

ORDERED that at the expiration of the said ninety (90) day period, the Federal Bureau of Investigation shall deliver to this Court under seal an inventory of said tapes and documents and shall deliver said tapes and documents to the custody of the National Archives and Records Service, to be maintained by the Archivist of the United States under seal for a period of fifty (50) years; and it is further

ORDERED that the Archivist of the United States shall take such actions as are necessary to the preservation of said tapes and documents but shall not disclose the tapes or documents, or their contents, except pursuant to a specific Order from a court of competent jurisdiction requiring disclosure.


United States District Judge

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