

JAMES H. LESAR
ATTORNEY AT LAW
910 SIXTEENTH STREET, N. W. SUITE 600
WASHINGTON, D. C. 20006
TELEPHONE (202) 223-5587

March 10, 1977

FREEDOM OF INFORMATION APPEAL

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

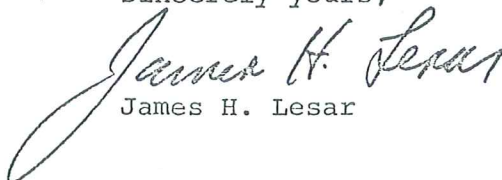
Dear Mr. Bell:

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



United States Department of Justice

WASHINGTON, D.C. 20530

ASSISTANT ATTORNEY GENERAL

MAR 9 1977

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

Dear Mr. Lesar:

This is in further response to your February 7, 1977 request pursuant to the Freedom of Information Act for copies of certain specified records concerning the Civil Rights Division's investigation into the assassination of Dr. Martin Luther King, Jr.

As indicated to you by letter of March 2, 1977, the Civil Rights Division processed your request with respect to Items 1 and 2 only, since Items 4, 5 and 6 were responded to by the Office of Professional Responsibility, and your request under Item 3 was referred to the Office of Public Information for processing and direct response to you.

Item 1 of your request seeks "Any orders, memorandums, or directives instructing the Civil Rights Division to review the investigation into the assassination of Dr. Martin Luther King, Jr." A search of the Civil Rights Division files has revealed one intra-agency memorandum from the Attorney General to the Assistant Attorneys General of the Criminal and Civil Rights Divisions responsive to this request.

Memoranda of this type are exempt from mandatory disclosure pursuant to 5 U.S.C. §552(b)(5) which exempts "inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." It is, however, the policy of the Department of Justice to make a discretionary release of such intra-agency memoranda



where it is determined that disclosure would not be detrimental to the interests of the Department. Accordingly, the following document is provided to you as a discretionary release:

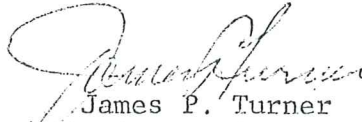
Intra-agency memorandum, dated November 26, 1975, from Attorney General Edward H. Levi to Assistant Attorneys General Richard Thornburgh, Criminal Division, and J. Stanley Pottinger, Civil Rights Division.

The report on the 1975-76 Civil Rights Division review of the King assassination which you seek under Item 2 of your Freedom of Information request is an intra-agency memorandum, dated April 9, 1976, from the Assistant Attorney General, Civil Rights Division, to the Attorney General. Attached to that memorandum, and incorporated in it by reference, is a memorandum of March 31, 1976, from the Chief of the Criminal Section of the Civil Rights Division to the Assistant Attorney General of that Division.

I have concluded that your request, with respect to Item 2, should be denied in its entirety. First, the responsive memoranda are both classified pursuant to Executive Order 11652 and are, therefore, exempt from disclosure pursuant to 5 U.S.C. §552(b)(1) which specifically exempts such material from mandatory disclosure under the Freedom of Information Act. Second, the memoranda are intra-agency memoranda exempt from mandatory disclosure pursuant to 5 U.S.C. §552(b)(5). Third, portions of the memoranda are also exempt from disclosure under 5 U.S.C. §552(b)(7)(C) and (E) which exempt from mandatory disclosure investigatory records compiled for law enforcement purposes to the extent that production of such records would constitute an unwarranted invasion of personal privacy [subsection (C)], or disclose investigative techniques and procedures [subsection (E)].

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,

A handwritten signature in cursive script, appearing to read "James P. Turner".

James P. Turner
Deputy Assistant Attorney General
Civil Rights Division