

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES HIRAM LFSAR, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 77-0692  
 )  
 U.S. DEPARTMENT OF JUSTICE, ET AL. )  
 )  
 Defendants. )  
 )  
 )

AFFIDAVIT OF SALLIANN M. DOUGHERTY

I, Salliann M. Dougherty, being duly sworn, depose and say as follows:

1. I am the Freedom of Information/Privacy Act Officer for the Civil Rights Division of the U.S. Department of Justice in Washington, D.C. I have held this position since the creation of a separate Freedom of Information/Privacy Act Unit for the Civil Rights Division in October, 1976. My duties include the coordination of the processing of all Freedom of Information and Privacy Act requests to the Civil Rights Division, and review and determination as to releasability of all Division documents responsive to such requests. In the case of total or partial denial of a request for Division records, my release recommendation is finally reviewed by the First Deputy Assistant Attorney General for the Civil Rights Division.

The facts stated in this affidavit are based upon my personal knowledge of the processing of Plaintiff's Freedom of Information Act request and upon information obtained by me in my official capacity.

2. On February 14, 1977, the Freedom of Information/Privacy Act Unit for the Civil Rights Division received a copy of Plaintiff's February 7, 1977 letter to the Deputy Attorney General. Pursuant to the Freedom of Information Act, Plaintiff requested six specific categories of documents pertaining to the Department of Justice review of the investigation into the assassination of Dr. Martin Luther King, Jr. [A true copy of this letter is attached hereto and made a part hereof as Exhibit A.]

3. The Civil Rights Division's Freedom of Information/Privacy Act Officer determined, from initial review of Plaintiff's February 7, 1977 request, that only those records responsive to Item 1 and 2 thereof were maintained within the files of the Civil Rights Division.

Item 3 of Plaintiff's Freedom of Information Act request sought "(a)ny press releases relating to a review by the Civil Rights Division of the King assassination." Pursuant to Title 28, Code of Federal Regulations, Section 0.7, all press releases are prepared and disseminated by the Office of Public Information. Therefore, by memorandum of February 25, 1977, the Freedom of Information/Privacy Act Officer for the Civil Rights Division referred a copy of Plaintiff's February 7, 1977 request to the Office of Public Information for appropriate action with regard to Item 3. [A true copy of this memorandum is attached hereto and made a part hereof as Exhibit B.]

Items 4, 5 and 6 of Plaintiff's Freedom of Information Act request sought records which are maintained by the Office of Professional Responsibility. To assure that Plaintiff's Freedom of Information Act request was processed by all necessary Department components, the Freedom of Information/Privacy Act Officer for the Civil Rights Division contacted Michael F. Shaheen, Jr.

Counsel, Office of Professional Responsibility. Mr. Shaheen advised that the Office of Professional Responsibility would respond to Plaintiff with regard to Items 4, 5 and 6. On February 24, 1977, the Civil Rights Division received a copy of Michael E. Shaheen's February 23, 1977 response letter to Plaintiff. [A true copy of this letter is attached hereto and made a part hereof as Exhibit C.]

4. By Item 1 of Plaintiff's February 7, 1977 Freedom of Information Act request, Plaintiff sought "(a)ny orders, memorandums, or directives instructing the Civil Rights Division to review the investigation into the assassination of Dr. Martin Luther King, Jr." In response to this portion of Plaintiff's request, the Division's Freedom of Information/Privacy Act Officer located one intra-agency memorandum dated November 26, 1975, from the Attorney General to the Assistant Attorneys General for the Civil Rights and Criminal Divisions. Since this document originated with the Office of the Attorney General, it was referred to Douglas R. Marvin, Counsellor to the Attorney General, for final review and release determination, as required by Title 28, Code of Federal Regulations, Section 16.4(a).

5. By Item 2 of Plaintiff's February 7, 1977 request, Plaintiff sought "(t)he report made by Assistant Attorney General J. Stanley Pottinger on the 1975-1976 review which the Civil Rights Division conducted of the King assassination." The Freedom of Information/Privacy Act Officer, after consultation with the Office of the Assistant Attorney General, Civil Rights Division, located the requested report in the security files of the Assistant Attorney General.

The requested report consists of an April 9, 1976 intra-agency memorandum from former Assistant Attorney General J. Stanley Pottinger to the Attorney General, and two intra-agency memoranda dated March 31, 1976, from Robert Murphy, former Chief, Criminal Section, Civil Rights Division, to the Assistant Attorney General. These documents were classified on April 9, 1976, pursuant to Executive Order 11652.

6. By letter of March 2, 1977, Plaintiff was advised that it would be necessary for the Civil Rights Division to extend its deadline for response for a period of five working days, pursuant to Title 28, Code of Federal Regulations, Section 16.5(c). This extension was necessary in order to consult with the Office of the Attorney General prior to making a final release determination with respect to Items 1 and 2 of Plaintiff's February 7, 1977 request. Plaintiff was also advised that the Office of Public Information would respond to Item 3 of his request and that the Office of Professional Responsibility, by letter of February 23, 1977, had responded to Items 4, 5 and 6. [A true copy of this letter is attached hereto and made a part hereof as Exhibit D.]

7. By memorandum of March 8, 1977, Douglas R. Marvin, Counsellor to the Attorney General, responded to the Civil Rights Division's request that the Office of the Attorney General review the document sought by Item 2 of Plaintiff's Freedom of Information Act request. Mr. Marvin stated that he had no objection to disclosing the Attorney General's November 26, 1975 intra-agency memorandum as a discretionary release. [A true copy of this memorandum is attached hereto and made a part hereof as Exhibit E.]



8. By letter of March 9, 1977, First Deputy Assistant Attorney General James P. Turner, after review of the responsive Civil Rights Division documents, responded to Items 1 and 2 of Plaintiff's February 7, 1977 Freedom of Information Act request.

In response to Item 1 of Plaintiff's request, the Deputy Assistant Attorney General provided to Plaintiff a copy of the November 26, 1975 intra-agency memorandum from former Attorney General Edward H. Levi to former Assistant Attorneys General Richard Thornburgh, Criminal Division, and J. Stanley Pottinger, Civil Rights Division. This two page document was provided to Plaintiff as a discretionary release of an intra-agency memorandum generally exempt from mandatory disclosure pursuant to Title 5, United States Code, Section 552(b)(5).

First Deputy Assistant Attorney General Turner advised Plaintiff that his request, with respect to Item 2, was denied in its entirety. This denial was made on the basis of the fact that the responsive April 9, 1976 and March 31, 1976 memoranda were classified pursuant to Executive Order 11652 and were, therefore, exempt from disclosure pursuant to Title 5, United States Code, Section 552(b)(1). This section of the Freedom of Information Act exempts documents which are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national security and are, in fact, properly classified pursuant to such Executive Order. In addition, the First Deputy Assistant Attorney General determined that these intra-agency memoranda were exempt from mandatory disclosure pursuant to Title 5, United States Code, Section 552(b)(5). Portions thereof were also determined to be exempt pursuant to Title 5, United States Code, Section 552(b)(7)(C), which exempts from mandatory disclosure investigatory records compiled for law

enforcement purposes to the extent that production thereof would constitute an unwarranted invasion of personal privacy, and pursuant to Section 552(b)(7)(E), which exempts investigatory records which would disclose investigative techniques and procedures. [A true copy of this letter is attached hereto and made a part hereof as Exhibit F.]

9. By letter to Attorney General Griffin Bell dated March 10, 1977, Plaintiff appealed the March 9, 1977 denial by the Civil Rights Division of Item 2 of Plaintiff's Freedom of Information Act request of February 7, 1977. [A true copy of this letter is attached hereto and made a part hereof as Exhibit G.]

10. As a result of Plaintiff's administrative appeal from the Civil Rights Division's denial of Item 2 of the February 7, 1977 request, the classification of the subject documents was reviewed pursuant to Title 28, Code of Federal Regulations, Section 17.38(a)(2).

The subject documents were initially reviewed for classification propriety by Debra J. Kossow, Office of the Deputy Attorney General. In view of the fact that the classified information contained therein is derived from multiple source documents classified by the Federal Bureau of Investigation, the documents were also reviewed by William N. Preusse of the Document Classification and Review Section, Federal Bureau of Investigation. Classification was then reviewed and endorsed by the Department of Justice Classification Review Committee.

As a result of the Department's Classification review, the determination was made that certain portions of the subject documents no longer warrant classification. Other portions of the documents were determined to warrant reclassification as Top Secret, since disclosure thereof would reveal the most sensitive of the Federal Bureau of Investigation's national security informants in certain organizations.

11. Inasmuch as multiple source and not single source derivative material was utilized in the documents responsive to Item 2 of Plaintiff's request, final reclassification authority rests with the First Deputy Assistant Attorney General for the Civil Rights Division, pursuant to Title 28, Code of Federal Regulations, Section 17.23. Therefore, with the guidance and concurrence of the Department of Justice Classification Review Committee, the Document Classification and Review Section of the Federal Bureau of Investigation and the Chief, Security Programs Group, Office of Management and Finance, First Deputy Assistant Attorney General James P. Turner regraded the classification of certain national security information contained in the subject documents from Secret to Top Secret, and declassified most of the other information contained therein, in accordance with Title 28, Code of Federal Regulations, Section 17.26.

12. By letter of October 31, 1977, the Deputy Attorney General advised Plaintiff that the Civil Rights Division would provide the documents sought by Item 2 of Plaintiff's February 7, 1977 request, subject to certain excisions pursuant to Title 5, United States Code, Sections 552(b)(1) and (b)(7)(C). [A true copy of this letter is attached hereto and made a part hereof as Exhibit H.]


13. On the basis of the First Deputy Assistant Attorney General's reclassification action and the October 31, 1977 administrative appeal decision by the Deputy Attorney General, the Freedom of Information/Privacy Act Officer for the Civil Rights Division reviewed the documents responsive to Item 2 of Plaintiff's February 7, 1977 request. Pursuant to Title 5, United States Code, Sections 552(b)(1) and (b)(7)(C), all exempt information was excised from the copies of the responsive documents to be disclosed to Plaintiff. The responsive Civil Rights



Division documents were then reviewed by First Deputy Assistant Attorney General James P. Turner.

14. By letter of December 15, 1977, the First Deputy Assistant Attorney General provided Plaintiff with copies of the April 9, 1976 and March 31, 1976 intra-agency memoranda responsive to Item 2 of Plaintiff's February 7, 1977 Freedom of Information request. Plaintiff was advised that portions of the responsive documents would continue to be withheld pursuant to Title 5, United States Code, Section 552(b)(1) because those portions warrant continued classification under Sections 5(B)(2) and (3) of Executive Order 11652. The declassified portions of the responsive documents were released to Plaintiff, subject only to excisions of names and other identifying data the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of Dr. King's family and/or certain third parties. This information is not known to be within the public domain and is exempt from mandatory disclosure pursuant to Title 5, United States Code, Section 552(b)(7)(C).

Pursuant to Title 28, Code of Federal Regulations, Section 16.9(b)(1), a copying fee of \$0.10 per page may be charged for duplication of records in response to a Freedom of Information Act request. However, because of the minimal duplication cost in this case, the First Deputy Assistant Attorney General determined to waive the copying fee and provided Plaintiff sixty-seven pages of material responsive to Item 2 of his February 7, 1977 Freedom of Information request at no charge. [A true copy of this letter is attached hereto and made a part hereof as Exhibit I.]

  
SALLIANN M. DOUGHERTY  
Freedom of Information/Privacy  
Act Officer  
Civil Rights Division  
U.S. Department of Justice

Subscribed and sworn before  
me this 10<sup>th</sup> day of January,  
1978.

  
NOTARY PUBLIC

My commission expires on Feb. 14, 1982.



JAMES H. LESAR  
ATTORNEY AT LAW  
1231 FOURTH STREET, S. W.  
WASHINGTON, D. C. 20024  
TELEPHONE (202) 484-6023

RECEIVED  
U.S. DEPARTMENT  
OF JUSTICE

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FREEDOM OF INFORMATION  
ACT REQUEST  
February 17, 1977

FREEDOM OF INFORMATION REQUEST

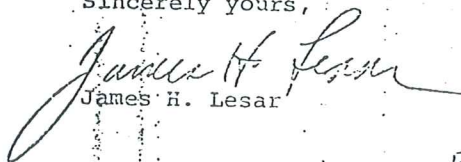
The Deputy Attorney General  
U. S. Department of Justice  
Washington, D. C. 20530

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

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1977  
rec

[EXHIBIT A]

FEB 23 1977

Robert Havel  
FOI/PA Control Officer  
Office of Public Information

DJ 236330-4-1

Salliann M. Dougherty  
Freedom of Information/Privacy  
Act Unit, Civil Rights Division

Freedom of Information Request of  
James H. Lesar

The attached FOIA request was received by the Civil Rights Division on February 14, 1977. Mr. Lesar seeks six specific items in connection with the Department's investigation into the assassination of Dr. Martin Luther King, Jr.

The referenced items 1 and 2 are in the possession of the Civil Rights Division and are being processed accordingly. Items 4-6 were provided to Mr. Lesar by the Office of Professional Responsibility on February 23, 1977 (copy of Michael Shaheen's letter to Mr. Lesar is attached).

Item 3 of Mr. Lesar's request seeks "Any press release relating to a review by the Civil Rights Division of the King assassination". Since any such press release would be made available through the Office of Public Information, I am referring a copy of Mr. Lesar's request to your office for whatever action, if any, is deemed appropriate in response to Item 3.

[EXHIBIT B]



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. SHAMIEN, JR.  
Counsel

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

*Attn: Walter Bennett  
Rm. 5746*

[EXHIBIT C]

FOI/PA  
Civil Rights Div.

REC'D FEB 24 1977





Mr. James H. Lesar  
Attorney at Law  
1251 Fourth Street, S.W.  
Washington, D.C. 20024

1977

Dear Mr. Lesar:

This is in 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 in to the assassination of Dr. Martin Luther King, Jr. Your request was received by the Freedom of Information/Privacy Act Unit of the Civil Rights Division on February 14, 1977.

A copy of your request was also referred to the Department's Office of Professional Responsibility. From consultation with Mr. Michael E. Shaheen, Jr. of that Office and Mr. Shaheen's letter to you, dated February 22, 1977, it is the Civil Rights Division's understanding that your request, in regard to Items 4, 5 and 6, has been responded to by the Office of Professional Responsibility.

All press releases for the Department are made by the Office of Public Information. A copy of your request has therefore been referred to that office for response in regard to Item 5. The Office of Public Information will respond directly to you regarding that portion of your request.

The Civil Rights Division is currently processing your request with respect to Items 1 and 2. Due to the need for consultation with appropriate Department staff prior to making any final determination as to what, if any, records may be released, it will be necessary to extend

[EXHIBIT D]

the deadline for response to your request for a period of five working days pursuant to Department of Justice Freedom of Information Act regulations, 28 C.F.R. 16.5(c). A response will therefore be sent to you by Wednesday, March 9 1977 unless you are otherwise notified.

Sincerely,

Drew S. Days, III  
Acting Assistant Attorney General  
Civil Rights Division

By: Salliann M. Dougherty  
Freedom of Information/Privacy Act Unit  
Civil Rights Division

memorandum

DATE: March 8, 1977  
REPLY TO: Douglas R. Marvin  
ATTN OF: Counsellor to the Attorney General  
SUBJECT:

TO: Salliann M. Dougherty  
Freedom of Information/Privacy  
Act Officer, Civil Rights Division

I have no objection to disclosing the Attorney General's memorandum of November 26, 1975, pursuant to the Freedom of Information Act as a discretionary release.

FOI/PA  
Civil Rights Div

REC'D MAR 8 1977

[EXHIBIT E]

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

OPTIONAL FORM NO. 10  
(REV. 7-76)  
GSA FPMR (41 CFR) 101-11.6  
5010-112



MAR 0 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

[EXHIBIT F]

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,

James P. Turner  
Deputy Assistant Attorney General  
Civil Rights Division



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OFFICE OF THE

MAR 14 11 35 AM '77

DEPUTY  
ATTORNEY GENERAL

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

March 10, 1977

#3060

FREEDOM OF INFORMATION APPEAL

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

RECEIVED  
Freedom of Information  
Appeals Unit  
Department of Justice  
3-14-77

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.

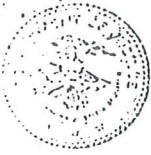
Sincerely yours,

*James H. Lesar*  
James H. Lesar

FOI / PA  
CIVIL Rights Div.

REC'D APR 18 1977

[EXHIBIT G]



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

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

OCT 31 1977

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. Minor excisions were

FOT/PA  
CIVIL RIGHTS DIV.

REC'D NOV 2 1977

[EXHIBIT H]

*Rebbin*



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. Rore, 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

DEC 15 1977

James H. Lesar, Esquire  
c/o Mr. Harold Weiskerg  
Route 12  
Frederick, Maryland 21701

Dear Mr. Lesar:

Pursuant to the decision of the Deputy Attorney General regarding your administrative appeal from the Civil Rights Division's partial denial of your February 7, 1977 Freedom of Information Act request, the previously withheld March 31 and April 9, 1976 memoranda are disclosed herewith, subject to certain excisions.

As you were advised by the Deputy Attorney General's letter of October 31, 1977, the Civil Rights Division has declassified most of the information in these documents. The remaining classified information has been found by the Federal Bureau of Investigation and the Department Classification Review Committee to warrant continued classification under Sections 5(B)(2) and (3) of Executive Order 11652. Therefore, the subject portions of these documents will continue to be withheld pursuant to 5 U.S.C. §552(b)(1) and are so indicated in your copies of the documents.

The declassified portions of the March 31 and April 9, 1976 memoranda are released subject only to excisions of names and other identifying data the disclosure of which would constitute a clearly unwarranted invasion of the personal privacy of Dr. King's family and/or certain third parties. This information is not known to be within the public domain and is exempt from disclosure pursuant to 5 U.S.C. §552(b)(7)(C). All excisions are clearly indicated in your copies of the documents.

Please find enclosed copies of the following intra-agency memoranda with excisions as described supra:

[EXHIBIT I]

1. Intra-agency Memorandum for the Attorney General dated April 9, 1976, from J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division. (10 pages)

2. Intra-agency memorandum dated March 31, 1976, to J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, from Robert A. Murphy, Chief, Criminal Section. (51 pages)

3. Intra-agency memorandum dated March 31, 1976, to J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, from Robert A. Murphy, Chief, Criminal Section. (6 pages)

Pursuant to 28 C.F.R. §16.9(b)(1), a copying fee of \$0.10 per page, or \$6.70 for sixty-seven pages, may be charged for duplication of the documents responsive to this request. Since this copying fee is minimal, I have determined that the fee should be waived in this case.

As you know, judicial review of the action of the Deputy Attorney General and the Civil Rights Division on this administrative appeal 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.

Sincerely,

James P. Turner  
Deputy Assistant Attorney General  
Civil Rights Division