

12/5/77

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....

HAROLD WEISBERG,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY,

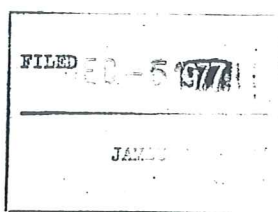
and

NATIONAL SECURITY AGENCY,

Defendants

.....

Civil Action No. 77-1997



NOTICE OF AMENDMENTS TO COMPLAINT

PLEASE TAKE NOTICE that plaintiff hereby amends his Complaint pursuant to Rule 15(a) of the Federal Rules of Civil Procedure.

The amendments are as follows:

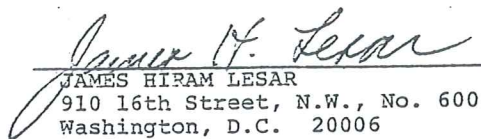
1. Paragraph "3" is amended to add the NATIONAL SECURITY AGENCY as a party defendant.
2. Paragraph "11" is renumbered and appears as paragraph "12" of the Amended Complaint.
3. A new paragraph is added as paragraph "11" of the Amended Complaint, which now reads:

11. By letter dated November 22, 1977, the National Security Agency advised plaintiff that his June 11, 1976 Freedom of Information Act request was referred to the NSA by the CIA and received by the NSA on November 4, 1977, a mere 17 months after plaintiff's request. The NSA advised plaintiff that his request was denied on the basis of 5 U.S.C. §552(b)(1) and (3) (Plaintiff's Exhibit 8)

4. Item 2 of the prayer for relief has been changed to read "defendants" rather than "defendant."
5. Item 4 has been changed to read "CIA" rather than "defendant."

D

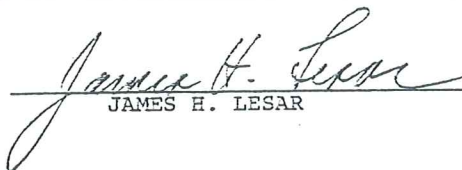
A copy of the Amended Complaint is attached hereto.


JAMES HIRAM LESAR
910 16th Street, N.W., No. 600
Washington, D.C. 20006

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of December, 1977, mailed a copy of the foregoing Notice of Amendments to Complaint, together with the attached copy of the Amended Complaint, to United States Attorney Earl Silbert, United States Courthouse, Washington, D.C. 20001, attorney for the defendants.


JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG.
Route 12
Frederick, Maryland 21701
Phone: [301] 473-8186

Plaintiff,

v.

Civil Action No. 77-1997

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20505.

and

NATIONAL SECURITY AGENCY.
Fort George G. Meade, Md. 20755

Defendants
.....

A M E N D E D C O M P L A I N T

[Freedom of Information Act, 5 U.S.C. §552]

1. Plaintiff brings this action under the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 93-502, 88 Stat. 1561 [93d Cong., 2d Sess.], and Public Law 94-409 [94th Cong., 2d Sess.].

2. Plaintiff is HAROLD WEISBERG, who resides at Route 12, Frederick, Maryland. Plaintiff is widely recognized as the foremost authority on the assassination of Dr. Martin Luther King, Jr. and is author of Frame-Up: The Martin Luther King/James Earl Ray Case (Outerbridge & Dienstfry, 1971).

3. Defendants are the CENTRAL INTELLIGENCE AGENCY, Washington, D.C. 20505, and the NATIONAL SECURITY AGENCY, Fort George G. Meade, Maryland 20755.

4. On June 11, 1976 plaintiff addressed a Freedom of Information Act request to the Central Intelligence Agency for seven categories of records pertaining to the assassination of Dr. King. (Plaintiff's Exhibit 1)

5. By letter dated June 21, 1976, the CIA's Information and Privacy Coordinator, Mr. Gene F. Wilson, acknowledged receipt of Mr. Weisberg's request. (Plaintiff's Exhibit 2)

6. More than five months later, by letter dated November 30, 1976, the CIA informed plaintiff that: "We find that we are unable to respond to your request as it now stands due to legal and regulatory restrictions on the release of personal information from official records." The CIA also advised plaintiff that: "we can proceed no further with your request unless and until we are in receipt of notarized statements of release from Mrs. Coretta King and James Earl Ray, respectively." Finally, the CIA demanded that plaintiff state his willingness to pay search and duplication fees that it estimated could approach \$1,000.00 and insisted upon a down payment of half this amount. (Plaintiff's Exhibit 3)

7. On December 3, 1976, plaintiff stated his willingness to pay search and copying charges up to the amount of \$1,000.00 and forwarded the requested \$500.00 down payment to the CIA. The CIA thereafter cashed the \$500.00 check. In his December 3, 1976 letter plaintiff reserved the right to recover the \$500.00 and any subsequent payments. He also requested that the CIA make a determination that search fees and copying charges should be waived because furnishing the information can be considered as primarily benefiting the general public. (Plaintiff's Exhibit 4)

8. By letter dated December 27, 1976, plaintiff noted that he had provided the CIA with a waiver by James Earl Ray and requested certain information about the processing of his request. (Plaintiff's Exhibit 5)

9. Except for a brief letter dated January 13, 1977 (Plaintiff's Exhibit 6), plaintiff received no further communication from the CIA on his King assassination request until it informed him, by letter dated April 26, 1977, that it was releasing certain records pertaining to his request. (Plaintiff's Exhibit 7) Virtually all of the records released consisted of newspaper clippings. A few cables and memorandums were released with excisions and a larger number were listed but withheld in their entirety. The records provided by the CIA were poor quality xeroxes of letter-size documents on legal-size paper.

10. The CIA's April 26, 1977 letter referred to this release as a partial release and stated that it was continuing to process other records pertaining to his request. However, the CIA has made no additional release since that which accompanied its April 26, 1977 letter.

11. By letter dated November 22, 1977, the National Security Agency advised plaintiff that his June 11, 1976 Freedom of Information Act request was referred to the NSA by the CIA and received by the NSA on November 4, 1977, a mere 17 months after plaintiff's request. The NSA advised plaintiff that his request was denied on the basis of 5 U.S.C. §552(b)(1) and (3). (Plaintiff's Exhibit 8)

12. Having exhausted his administrative remedies, plaintiff now brings suit for records which he alleges must be made available to him under the terms of the Freedom of Information Act:

WHEREFORE, plaintiff prays this honorable Court for the following relief:

1. That the defendants be compelled to disclose the records which plaintiff has requested;

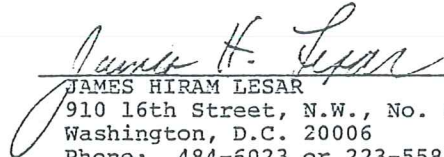
2. That the defendants provide plaintiff with clear and legible copies of all records, including those released heretofore, and that such copies be on letter-size paper except where the documents being copied are legal-size;

3. That plaintiff be granted a waiver of all search fees and copying costs;

4. That the CIA be compelled to return, with interest, the \$500.00 which it fraudulently obtained from plaintiff as a down payment for fictitious search and copying charges;

5. That the Court award plaintiff reasonable attorney fees and the costs of bringing this action; and

6. That the Court issue a written finding that the circumstances surrounding the withholding of these documents from plaintiff raise questions as to whether agency personnel acted arbitrarily and capriciously with respect to such withholding.



JAMES HIRAM LESAR
910 16th Street, N.W., No. 600
Washington, D.C. 20006
Phone: 484-6023 or 223-5587

Attorney for Plaintiff

Plaintiff's Exhibit 1

Civil Action No. 77-1997

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

June 11, 1976

FREEDOM OF INFORMATION REQUEST

Mr. Gene F. Wilson
Freedom of Information Coordinator
Central Intelligence Agency
Washington, D. C. 20505

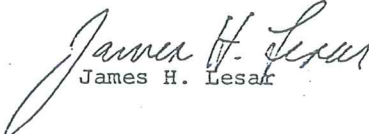
Dear Mr. Wilson:

On behalf of Mr. Harold Weisberg of Frederick, Maryland, I request access to the following:

1. All records pertaining to Dr. Martin Luther King, Jr.
2. All records pertaining to the assassination of Dr. Martin Luther King, Jr.
3. All records pertaining to James Earl Ray, under whatever name or alias.
4. All records on any alleged or suspected accomplice or associate in the assassination of Dr. Martin Luther King, Jr.
5. All collections of published materials on the assassination of Dr. Martin Luther King, Jr.
6. All analyses, commentaries, reports, or investigations on or in any way pertaining to any published materials on the assassination of Dr. Martin Luther King, Jr. or the authors of said materials.
7. All records, letters, cables, memorandums, routing slips, photographs, tape recordings, receipts, sketches, computer printouts or any other form of data pertaining to or in any way relevant to the foregoing requests for information, regardless of source or origin.

This request is made under the provisions of the Freedom of Information Act, 5 U.S.C. §552, as amended by Public Law 93-502.

Sincerely yours,


James H. Lesar

Plaintiff's Exhibit 2

Civil Action No. 77-1997

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

21 JUN 1976

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

Dear Mr. Lesar:

This acknowledges receipt of your letter of 11 June 1976 on behalf of Mr. Harold Weisberg requesting, under provisions of the Freedom of Information Act, access to any CIA records dealing with Dr. Martin Luther King, Jr., and/or James Earl Ray and any of his alleged or suspected accomplices in Dr. King's assassination.

I shall arrange for a search of CIA files and shall be in further communication with you once the search has been completed and any records found reviewed for releasability under the Act.

As you may know, the heavy volume of Freedom of Information requests received by the Agency has resulted in processing backlogs. If we do not respond within the 10 working days stipulated by the Act, it is your right to construe this as a denial, subject to appeal to the CIA Information Review Committee. It would seem more reasonable, however, for us to continue processing your request and to respond as soon as feasible. Any denials of records could be appealed at that time. Unless we hear from you otherwise, we will assume that this is agreeable to you and proceed on this basis.

For your information, I am enclosing a copy of our fee schedule. If the charges seem likely to be considerable, I shall provide you with an estimate and perhaps require a partial payment in advance of processing.

Sincerely,



Gene F. Wilson
Information and Privacy Coordinator

Enclosure: as stated



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Fees for Records Services

(a) Search and duplication fees shall be charged according to the schedule set out in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. The Coordinator also may waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount, in the aggregate, for a request, or a series of related requests, to less than \$4.

(b) Where it is anticipated that the fees chargeable under this section will amount to more than \$25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or of such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with the Coordinator in an attempt to revise the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

- (1) For each one quarter hour spent by clerical personnel in searching for a record, \$1;
- (2) For each one quarter hour spent by professional personnel in searching for a record, \$2;
- (3) For computer search, \$55;
- (4) For copies of paper documents in sizes not larger than 8 1/2 x 14 inches, \$0.10 per copy of each page; and
- (5) For duplication of non-paper media or any document that cannot be reproduced on a standard office copier actual direct cost.

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

30 NOV 1976

James H. Lesar, Esquire
1231 Fourth Street, S.W.
Washington, DC 20024

Dear Mr. Lesar:

You will recall that our letter of 21 June 1976 acknowledged receipt of your letter on behalf of Mr. Harold Weisberg requesting, under provisions of the Freedom of Information Act, access to any CIA records dealing with Dr. Martin Luther King, Jr., and to those dealing with James Earl Ray and any of his alleged or suspected accomplices in Dr. King's assassination.

We find that we are unable to respond to your request as it now stands due to legal and regulatory restrictions on the release of personal information from official records. In that light, please be advised that we can proceed no further with your request unless and until we are in receipt of notarized statements of release from Mrs. Coretta King and James Earl Ray, respectively. These statements should be quite specific as to what areas of personal information are and are not authorized for release by this Agency to you and your client. If all information in our records is releasable, that should be so stated; if only such information as relates to specific incidents or to specific periods of time is releasable, these caveats should be clearly stated.

Finally, we must ask that you provide a statement of willingness to pay search and duplication fees as required by this request and in line with the fee schedule enclosed. It has been estimated that such charges could approach \$1000. Along with the notarized statements above, and the statement of willingness to pay all search and copying charges (or those up to an established limit), we would require a down payment of half the anticipated charges. Payment should be made to this office in the form of a check or money order payable to Treasurer of the United States.

Sincerely,



Gene F. Wilson
Information and Privacy Coordinator



Enclosure

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

December 3, 1976

Mr. Gene F. Wilson
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Wilson:

In response to your letter of November 30, 1976, Mr. Harold Weisberg has authorized me to state his willingness to pay search and copying charges up to the amount of \$1,000 if such charges are required by his Freedom of Information Act request for records pertaining to Dr. Martin Luther King, Jr. and his assassination. Because you require a down payment of half the anticipated charges, I enclose a check for \$500.00.

This payment of \$500.00 and any subsequent payments made in connection with this request are tendered with the express reservation that Mr. Weisberg does not waive his right to recover them.

C.I.A. regulations provide:

Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. The Coordinator also may waive or reduce the charge whenever he determines that the interest of the government would be served thereby. 32 C.F.R. §1900.25(a).

In accordance with this regulation, I call upon you to determine that it is in the public and governmental interest to waive search and copying charges incurred in connection with Mr. Weisberg's request. Enclosed herein is a copy of a letter to Deputy Attorney General Harold R. Tyler, Jr. which makes a similar request of the Department of Justice. The reasons expressed in that letter for granting a waiver are incorporated in my request that you grant a waiver.

Should you require it, I will provide you with affidavits by myself, Mr. Weisberg, and others in support of this request for a waiver of the search and copying charges for these records. If you do wish supporting affidavits, I would appreciate it if you would

inform me of this as soon as possible. I would also request that you indicate what standards, if any, you have established for determining whether or not a request for waiver should be granted.

You state that you can proceed no further with Mr. Weisberg's request "unless and until we are in receipt of notarized statements of release from Mrs. Coretta King and James Earl Ray, respectively." Because Mr. Weisberg's request undoubtedly comprises records which do not involve any proper claim of privacy, this cannot be true. I do enclose, however, a copy of a notarized waiver by James Earl Ray. I will immediately contact Mrs. King about a waiver by her. In the meantime, I request that you proceed to make available those records responsive to Mr. Weisberg's request which do not involve any proper claim of invasion of privacy.

Sincerely yours,

James H. Lesar
James H. Lesar

Pay to the order of *President of the World* *1535*
Five Hundred and no/100 Dollars
AMERICAN SECURITY AND TRUST COMPANY
WASHINGTON, D.C.
Memo *CIT King* *James H. Texas*
⑆ 10540⑆0855⑆ 13⑆310 6⑆ 45⑆

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

December 27, 1976

Mr. Gene Wilson
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Wilson:

On November 30, 1976, you wrote that the CIA can proceed no further of Mr. Harold Weisberg's Freedom of Information Act request for records pertaining to Dr. Martin Luther King, Jr. and his assassination "unless and until we are in receipt of notarized statements of release from Mrs. Coretta King and James Earl Ray, respectively." As I noted in my letter of December 3, 1976, this cannot be true because Mr. Weisberg's request undoubtedly comprises records which do not involve any proper claim of privacy by either James Earl Ray or Mrs. King.

However, on December 3rd I did send you a copy of a waiver which James Earl Ray executed with respect to Department of Justice records on Dr. King's assassination. Anticipating that this might not suffice with respect to CIA records, I have obtained a second waiver from Ray which specifically refers to the records which your agency has. You will note that this waiver is limited to myself and Mr. Weisberg and does not authorize you to provide to other persons those records which you determine are exempt from disclosure on privacy grounds.

I note that you have not responded to my letter of December 3. In view of that, I solicit your assurance that you have begun processing Mr. Weisberg's request and will soon be making available to him those records for which a release by Mrs. King is not necessary. If I do not receive such an assurance very shortly, I will have no alternative but to bring suit against you.

I would like you to provide me with the following information: 1) the number you have assigned to Mr. Weisberg's request for King assassination documents, and 2) the number and date of the most recent request which you are processing as of the date of the receipt of this letter.

Finally, I would like to request that you make documents available to Mr. Weisberg as your review of them is completed, rather than waiting until all are reviewed before making any of them available. The Department of Justice has adopted this approach and is presently making about 500 pages of King assassination records available to Mr. Weisberg each week.

Sincerely yours,

James H. Lesar
James H. Lesar

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

13 JAN 1977

James H. Lesar, Esquire
1231 Fourth St., NW
Washington, DC 20024

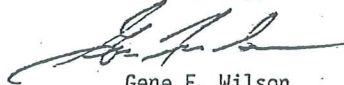
Dear Mr. Lesar:

Thank you for your letter of 27 December. This will acknowledge receipt of the sworn waiver executed by Mr. James Earl Ray, and to advise that processing of this portion of your request has been initiated. Upon receipt of the sworn waiver from Mrs. King, as mentioned in your letter of 3 December, we will then be able to proceed with all aspects of your FOIA request. We also wish to acknowledge receipt of your check for \$500.

Thank you for your assistance and continued cooperation.

This request has been assigned the case number F-76-382.

Sincerely,



Gene F. Wilson
Information and Privacy Coordinator



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

26 APR 1977

James H. Lesar, Esq.
Attorney at Law
1251 Fourth Street, S.W.
Washington, DC 20024

Dear Mr. Lesar:

This is in partial response to your request, dated 11 June 1976, made on behalf of your client, Mr. Harold Weisberg. Please refer also to our letters, dated 21 June 1976, 30 November 1976 and 13 January 1977. Per our recent telephone conversation this partial response addresses itself to that part of your letter requesting records pertaining to James Earl Ray.

The materials located thus far have been reviewed carefully, and our determinations are as follows:

Enclosed, Tab A, are copies of the following items which are being released to you in their entirety:

1. One book excerpt.
- 2-109. One hundred and eight (108) press items.
- 110-134. Twenty-five (25) UPI wire items.
- 135-171. Thirty-seven (37) Reuters wire items.
- 172-223. Fifty-two (52) AP wire items.

Enclosed also, Tab B, are segregable portions of the documents listed below. Deletions in the originals were made under the exemption provisions of the Freedom of Information Act subsections which are given with each document cited.

The applicability of these exemptions has been explained to you in our earlier correspondence.

<u>Documents</u>	<u>Exemptions</u>
224-225. Two cables, dated 10 April 1968.	(b)(1), (b)(3)
226. Cable, dated 18 April 1968.	(b)(1), (b)(3), (b)(6)
227-229. Three cables, dated 19 April 1968.	(b)(1), (b)(3), (b)(6)
230-235. Four cables, dated 20 April 1968.	(b)(1), (b)(3), (b)(6)
234-235. Two cables, dated 22 April 1968.	(b)(1), (b)(3), (b)(6)
236-237. Two dispatches, dated 22 April 1968.	(b)(1), (b)(3)
238-239. Two cables, dated 23 April 1968.	(b)(1), (b)(3), (b)(6)
240. Memorandum, dated 23 April 1968.	(b)(1), (b)(3), (b)(6)
241. Cable, dated 26 April 1968.	(b)(1), (b)(3)
242. Routing slip, dated 22 October 1975.	(b)(1), (b)(3), (b)(6)
243. Routing slip, dated 23 October 1975.	(b)(1), (b)(3), (b)(6)

The documents listed below are being withheld in their entirety under the exemption provisions of the Freedom of Information Act subsections given with each document.

<u>Documents</u>	<u>Exemptions</u>
244. Memorandum, dated 17 April 1968.	(b)(1), (b)(3), (b)(6)
245. Memorandum, dated 19 April 1968.	(b)(1), (b)(3), (b)(6)
246. Cable, dated 20 April 1968.	(b)(1), (b)(3), (b)(6)

247. Cable, dated 29 April 1968. (b) (1), (b) (3),
(b) (6)
248. Memorandum, dated 1 May 1968. (b) (1), (b) (3)
249. Cable, dated 3 May 1968. (b) (1), (b) (3),
(b) (6)
250. Memorandum, dated 14 May 1968. (b) (1), (b) (3),
(b) (6)
251. Memorandum, dated 16 May 1968. (b) (1), (b) (3),
(b) (6)
- 252-254. Three cables, dated 8 June 1968. (b) (1), (b) (3)
255. Memorandum, dated 19 February 1969. (b) (1), (b) (2),
(b) (3), (b) (6)
256. Memorandum, dated 28 May 1969. (b) (1), (b) (2),
(b) (3), (b) (6)
- 257-264. Eight biographic sketches. (b) (1), (b) (2),
(b) (3), (b) (6)
265. Memorandum, dated 17 April 1968. (b) (1), (b) (3),
(b) (6)
- 266-272. Seven Cables, dated 19 April 1968. (b) (1), (b) (3),
(b) (6)
273. Cable, dated 20 April 1968. (b) (1), (b) (3),
(b) (6)
274. Cable, dated 22 April 1968. (b) (1), (b) (3),
(b) (6)
275. Cable, dated 23 April 1968. (b) (1), (b) (3),
(b) (6)
276. Cable, dated 24 April 1968. (b) (1), (b) (3),
(b) (6)
- 277-278. Two Cables, dated 25 April 1968. (b) (1), (b) (3),
(b) (6)
279. Dispatch, dated 26 April 1968. (b) (1), (b) (3),
(b) (6)

- 280. Cable, dated 28 April 1968. (b) (1), (b) (3),
(b) (6)
- 281-282. Two Cables, dated 30 April 1968. (b) (1), (b) (3),
(b) (6)
- 283. Memorandum, dated 2 May 1968. (b) (1), (b) (3),
(b) (6)
- 284. Memorandum, dated 6 May 1968. (b) (1), (b) (3),
(b) (6)
- 285. Memorandum, dated 13 May 1968. (b) (1), (b) (3),
(b) (6)
- 286. Cable, dated 24 May 1968. (b) (1), (b) (3),
(b) (6)

The decisions cited above were made by Mr. Charles A. Briggs, DDO Information Review Officer.

As specified in the Freedom of Information Act, I am advising you of your right to appeal the above decisions, but it would seem to be more reasonable to await the complete results of our processing before you actually determine whether to do so.

We thank you for your patience and consideration.

Sincerely,

Charles E. Swigg
for Gene F. Wilson
Information and Privacy Coordinator

Enclosures



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755

Serial: N 9498

22 NOV 1977

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

Dear Mr. Lesar:

Your letter addressed to the Central Intelligence Agency (CIA), dated 11 June 1976, was referred to the National Security Agency (NSA) and received by this office on 4 November 1977. The CIA referred your letter to NSA because in their search pursuant to your request on behalf of your client, Harold Weisberg, the CIA located records originated by this Agency which fall within the scope of your request.

Therefore, in accordance with Department of Defense (DoD) Directive 5400.7, Section V, Paragraph E, this Agency has reviewed the records mentioned in the CIA letter of referral to NSA and provides the following response.

We cannot provide you access to, or release a copy of, the records because they are classified and therefore exempt from access or release pursuant to Title 5 U.S.C. 552(b)(1). The records have been reviewed and are judged to be currently and properly classified in their entirety under criteria set forth in paragraph 2-303, DoD Regulation 5200.1-R, which implements Executive Order 11652. The records are currently and properly classified within the categories provided in Chapter 1, Section 5 of DoD Regulation 5200.1-R and Section 1 of Executive Order 11652. Further they are properly excluded from automatic downgrading and declassification according to the exemption categories provided in Chapter 3, Section 3 of DoD Regulation 5200.1-R and Section 5(B) of Executive Order 11652.

In addition, this Agency is precluded by law from providing information on specific results of its classified activities except to those persons authorized to receive such information. Title 5 U.S.C. 552(b)(3) exempts matters which are specifically protected from disclosure by statute. The appropriate statutes in this case are: Title 18 U.S.C. 798; Title 50 U.S.C. 403(d); and Section 6 of Public Law 86-36. DoD Directive 5400.7, Sections III and VI.C.3., specifically recognizes this exemption.

No portion of the records is reasonably segregable.

Your request is therefore denied on the basis of 5 U.S.C. 552(b)(1) and (3).

Serial: N 9498

Any person denied access to records may, within 30 days after notification of such denial, file an appeal to the NSA/CSS Freedom of Information Act Appeal Authority. Such appeal shall be in writing addressed to the NSA/CSS FOIA Appeal Authority, National Security Agency, Fort George G. Meade, Maryland 20755. The appeal shall reference the initial denial of access issued by the Agency to the requester and shall contain in sufficient detail and particularity, the grounds upon which the requester believes release of the information is required. The NSA/CSS Appeal Authority shall respond to the appeal within 20 working days after receipt.

Sincerely,



NORMAN BOARDMAN
Chief, Policy Staff