

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, :
 :
 Appellant, :
 :
 v. : Case No. 79-1700
 :
 WILLIAM H. WEBSTER, et al., :
 :
 Appellees :
 :

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MOTION FOR LEAVE TO SUPPLEMENT RECORD

Comes now the appellant, Mr. Harold Weisberg, and moves the Court for leave to supplement the record with the attached December 2, 1977 letter of Mr. Allen H. McCreight, formerly Chief, Freedom of Information-Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation.

This lawsuit arises out of a Freedom of Information Act request which Mr. Weisberg made in his December 6, 1977 letter to Mr. McCreight. This letter was written in response to Mr. McCreight's letter of December 2, 1977. Although Mr. Weisberg's December 6, 1977 letter was placed in the record during the proceedings in District Court, Mr. McCreight's was not.

At oral argument of this case on March 18, 1980, a member of the panel questioned the government attorney about the absence

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of the McCreight letter. Weisberg's counsel understood this series of questions to suggest that Weisberg may have withheld this letter from the record for some ulterior reason. The questions also seemed to suggest that Weisberg's FOIA request was limited to those records on President Kennedy's assassination that were released on December 7, 1977.

McCreight's letter affords no basis for any such misapprehensions. It plainly refers not only to the release of 40,001 pages of FBI records on December 7th, but also to a "later second segment release [which] will cover the balance of our substantive investigation concerning this historical event." (See Attachment 1) Thus, Weisberg's reference in his December 6 letter to McCreight to "these records" is not confined to the partial release made on December 7th; rather, it includes the entire release of FBI Headquarters records on the assassination of President Kennedy.


The significance of this point becomes apparent when consideration is given to that part of Weisberg's FOIA request in which he states: "If there are any other records that indicate the content of these released records I am especially interested in them because they can be a guide to content." [App. 56] After the appeal in this case was taken, Weisberg learned that for every important document ("piece of mail"), the FBI prepares a duplicate 3x 5 form which identifies it and contains a brief synopsis of its contents. (See Attachment 2, p. 13 of FBI Central

Records System, an official publication of the FBI's Records Management Division) Presumably, the FBI prepared abstracts for the records compiled during its investigation of President Kennedy's assassination.¹ Such abstracts fall within Weisberg's request for "records that indicate the content of these related records." However, were this Court to limit Weisberg's FOIA request to records that pertain only to those Kennedy assassination records released to the public on December 7, 1977, Weisberg would then not be entitled to abstracts of the approximately 60,000 pages of records which were released thereafter.

In order to clarify the record by making it clear that Weisberg's FOIA request is for records related to the entire release of Kennedy assassination records and is not confined to those related to the 40,001 pages released on December 7, 1977, Weisberg requests that the Court grant his motion to supplement the record with the attached copy of McCreight's December 2, 1977 letter to him.

^{1/} In December, 1979, Weisberg established in a deposition taken in Weisberg v. U. S. Department of Justice, Civil Action No. 75-1996, that the FBI had prepared abstracts for the approximately 40,000 pages of Headquarters records which it compiled during its investigation into the assassination of Dr. Martin Luther King, Jr.

Respectfully submitted,

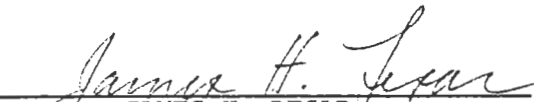


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Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of April, 1980, mailed a copy of the foregoing Motion for Leave to Supplement Record to Assistant United States Attorney John A. Terry, Room 3820, United States Courthouse, Washington, D.C. 20001.



JAMES H. LESAR

Attachment 1

Case No. 79-1700

December 2, 1977

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to the Federal Bureau of Investigation's (FBI) forthcoming release of file materials, under the Freedom of Information Act (FOIA), concerning the assassination of President John F. Kennedy.

The first segment of these materials will be made available beginning 9:30 a.m., December 7, 1977, in Room 1060, J. Edgar Hoover Building, 10th Street and Pennsylvania Avenue, Washington, D. C. Two sets of the materials will be made available during business hours for public review.

We normally require 48 hours advance notice from individuals who desire to make an appointment to review materials in our reading room. However, with respect to this release, no appointments are necessary for the first week. You may contact us at telephone number 324-3520 for any later appointment.

Due to limitations in space available for reviewing documents, each news organization is requested to limit the number of reviewers to two per session.

Materials to be released are copies from the raw investigative files of the FBI as they were compiled chronologically in our central records system during the investigation. Details of the substantive investigation were incorporated in reports which the FBI furnished in 1964 to the President's Commission on the Assassination of President Kennedy (Warren Commission). As you may be aware, many of these FBI investigative reports became part of the documentary record made public with the Warren Commission's testimony and exhibits in 1964, and subsequently made available in the National Archives.

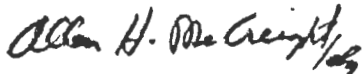
Mr. Harold Weisberg

Our first segment FOIA release will consist of 40,001 pages of duplicated FBI documents, and will cover the first months of the investigation into President Kennedy's murder in Dallas, Texas, on November 22, 1963. A later second segment release will cover the balance of our substantive investigation concerning this historical event. Pursuant to Title 28, Code of Federal Regulations, 16.9, there is a fee of ten cents per page for duplication. A complete copy of the first segment release can be purchased for \$4,000.10.

It will require substantial research effort by interested scholars to relate these FOIA materials to the public record. No index of our FBI materials is available to cross-reference these materials to other records of the assassination investigation, such as the material available at the National Archives.

I hope the above is of assistance to you.

Sincerely yours,



Allen H. McCreight, Chief
Freedom of Information-Privacy Acts Branch
Records Management Division



FBI

**CENTRAL
RECORDS
SYSTEM**

Records Management Division

The 0 and 00 files in the field serve the same purpose as at FBIHQ. However, the field separates files according to pending/closed status. Accordingly, the pending volume of the 0 file is maintained with the pending investigative files and is filed preceding the first case file in each respective classification. Closed volumes of 0 files are maintained with closed investigative files in the same fashion as with pending files. The 00 files are filed in numerical order by classification apart from the investigative files and are maintained by an employee identified as the "Administrative Clerk".

Abstracts

For every important piece of mail, a duplicate 3 x 5 form is prepared, which identifies the mail by (1) type, (2) date, (3) source and/or destination, (4) preparer in the case of reports, (5) subject, and (6) file number. Additionally, each abstract contains a brief synopsis of the document. The original abstract is filed chronologically to facilitate retrieval of documents by the source or destination within a particular calendar year. The duplicate is filed by order or serialization in file to facilitate processing and (internal) accountability. Field offices do not maintain abstracts.