

The Files of the FBI Divisions

The central records copy of the MURKIN files contained numerous notations of the removal of records that had not been returned when the file was processed. The notations included who and in what Division ^{often also what room.} removed those records. The FBI took the position, without disputing that records were removed from the file and not returned, that because they are no division files there are no division ~~files~~ files to search. But the ~~brief~~ brief now admits that "the files of the General Investigative Division" were searched for another purpose. ^(see 125) This acknowledges that the divisions do have files and that at the least what was missing when the MURKIN ^{file} was processed should have been searched for in the divisions I identified.

Plaintiff also argues that the FBI's response to his request was inadequate because the Bureau failed to conduct particularized searches on J.C. Hardin, Raul Esquivel, Sr. and the "Lawn Tickler." Pl. Br. at 39-40. It has always been the FBI's position that any information about individuals relevant to the King assassination is contained in the Bureau's MURKIN file (see, e.g., Transcript of June 30, 1977 status call, R. 41 at p. 31) and plaintiff has presented no meaningful evidence to refute this position.⁷ Moreover, plaintiff's FOIA request make no mention of Messrs. Hardin and Equivel, and we are unaware of any significant proceedings in the district court regarding their records. Finally, we note that Messrs. Hardin and Esquivel have not waived their rights under the Privacy Act, 5 U.S.C. 552a, regarding their personal files.⁸

With respect to the "Lawn Tickler," the FBI has conducted a thorough, fruitless search of the files of the General Investigative Division, in which Special Agent Lawn worked. Fifth Wood

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⁷ Plaintiff's reliance (Pl. Br. at 22) on the fact that an FBI memorandum concerning a request by a writer to interview FBI agents for a book on the King assassination was not filed in the MURKIN file is plainly misguided; it is self-evident that a request by a writer for an interview about an event is not part of the substantive investigation of the event itself.

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⁸ Plaintiff's argument that the FBI wrongfully refused to search certain items of his December 23, 1975, request without a privacy waiver from the individuals involved has no merit. See, e.g., Terkel v. Kelly, 599 F.2d 214, 216 (7th Cir. 1979), cert. denied, 444 U.S. 1013 (1980); Rushford v. Civiletti, 485 F. Supp. 477, 479 (D.D.C. 1980), aff'd without opinion, 656 F.2d 900 (D.C. Cir. 1981)

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Lawn tickler (+ long)

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Discussed 2/2/81

Affidavit, R. 148, exhibit A. This outcome is hardly surprising, since ticklers are merely duplicates of material found in FBI control records, and are routinely destroyed within a specified period of time after an investigation has ended. Id., ¶ 3. These are the only "divisional files" maintained by the Bureau.

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Plaintiff next contends (Pl. Br. at 38-39) that the FBI should be required to reprocess records processed from FBI field offices pursuant to the August 12, 1977, stipulation between the parties. Plaintiff must be aware, however, that his request nullifies a provision of the stipulation that states:

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[d]uplicates of documents already processed at headquarters will not be processed or listed on the worksheets.

(R. 44). As a result of this stipulation, which was duly signed by the district court, the FBI consistently processed and released only those field office records which were not processed at Headquarters, while also releasing from field office files "attachments that are missing from headquarters documents" and "copies of [Headquarters] documents with notations," as provided for by the stipulation.⁹ Plaintiff now requests this Court--as he requested the district court on numerous occasions--to scrap this long-standing agreement by

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⁹ Documents bearing routine administrative markings were not processed as "documents with notations". Since all FBI field office documents have such markings, such an interpretation would have made the language of the stipulation meaningless.

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