

The Lawn Tickler

With regard to the Lawn tickler, the brief states (at page 25) that "the FBI has conducted a ~~search~~ thorough, ~~search~~ fruitless search of the files of the General Investigative Division, in which Agent Lawn worked."

First this gives the lie to the FBI's representation throughout this litigation, that the Divisions have no files.

Any search "of the files" of the division was guaranteed to be fruitless because by their nature and for their purposes in active cases ticklers are kept convenient for those who use them in ongoing cases.

Agent Lawn, for example, was not asked where his tickler was.

In the Ryan to Bassett memo of October 12, 1978 listing what had been provided to HSCA ticklers are referred to in the plural. Only the Long tickler has been produced in this litigation, and that only after a series of misrepresentations regarding its existence and location.

The existence of the Lawn tickler is established by the MURKIN file, which refers to it.

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With regard to these ticklers, HSCA reported that they hold ~~DEI~~ records not found in the main files. ~~yet appropriate to the subject matter~~

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.

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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