

ATTACHMENT

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CIVIL ACTION NUMBERS:

82-1602
82-2108
82-2109
82-2110
82-2128
82-2130
82-2156
82-2379
82-2522
82-2523
82-2679
82-2680

LAW OFFICES
FENSTERWALD & ASSOCIATES

SUITE 900, TWIN TOWERS BLDG.
1000 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22209

(703) 276-8297

NEW YORK ASSOCIATES
BARS. ULLMAN & LUSTIGMAN
747 THIRD AVENUE
NEW YORK, NEW YORK 10017
(212) 761-6686

BERNARD FENSTERWALD, JR.
BERNARD FENSTERWALD, III
JAMES H. LESAR (D.C. ONLY)
GORDON F. HARRISON (D.C. ONLY)
OF COUNSEL

October 20, 1982

Mr. Jonathan C. Rose
Assistant Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Rose:

I wish to acknowledge receipt of your letter of October 15, 1982
(Appeal No. 82-1076).

As you so correctly stated, the matter is sub judice in the District Court, and, strictly speaking, no comments by me are required at this stage. However, there are a few remarks which should be made for the record.

As to Category A requests, if my clients are dissatisfied with the Vaughn index and with the withholding, it would seem more appropriate to make that position known to the Court rather than to you for a second time. In view of your current attitude toward appeals, it would be my educated guess that most requesters make an appeal to you for the sole purpose of exhausting administrative remedies under the statute. It would, however, be interesting to know in what percentage of cases in which you substantively take up an appeal, do you reverse the position taken by the FBI.

As to Category D, we believe that limiting yourself to Sylvia Meagher's Index has no validity in law or precedence. I am very familiar with Ms. Meagher's very excellent Index. However, much research has been done of which Ms. Meagher has no knowledge. The "French Connection" came to public light only in 1975.

More important perhaps is the fact that my clients, though pointing out that they were researching the JFK assassination, made a request for certain records in FBI files; they did not limit their request in any way to individuals listed in Ms. Meagher's Index or anyone else's; therefore, I know of no basis on which you or the FBI can limit the request for them. You may not like the request, and you may not respond, but you cannot unilaterally limit it. Only a Court can ultimately decide whether they are entitled to the records made in their requests.

*They have
her HSCA
index, so
I gave it to
Shel*

Mr. Jonathan C. Rose
Assistant Attorney General
U.S. Department of Justice
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I shall not comment at length on your interpretation of the inter-action between the FOIA and Privacy Acts, other than to say that it is not possible to decide whether production of a particular record is or is not a "clearly unwarranted invasion of privacy" until the record is located, retrieved, and considered in the light of all of the circumstances. In my view, to conclude that release of records relating to a "third party" is automatically and blanketly a clearly unwarranted invasion, even before the record is reviewed, has no basis of support in FOIA, its amendments, and all of its legislative history.

As to the relevance between the requests and the Kennedy assassination, and as to fee waivers, there is enclosed a copy of a declaration by Mr. Richard Billings which I obtained just yesterday. I believe that the declaration is self-explanatory. It indicates that my clients are not pursuing moon-beams or personal whims but a solid lead which, I might add parenthetically, should be pursued vigorously by your Department.

I would hope that Mr. Billings' declaration would be persuasive to you. However, I would not count upon it, because several years have passed since the House Select Committee on Assassinations reached its basic conclusion of a "probable conspiracy" in the murder of President Kennedy. Yet, the only action taken by the Department of Justice has been reference to the National Academy of Sciences of one technical matter. In my own personal view, it is an absolute and shocking disgrace that a Committee of Congress could reach the conclusion that it did . . . of probable conspiracy in the murder of a U.S. President . . . only to have its Report and its basic conclusion fall on completely deaf ears at the Department which is supposed to see to the execution of our laws. I wonder how long our system of government can and will survive under these circumstances.

It is true that much time and money has been spent on investigating John Kennedy's death. However, until the "probable co. spirators" are at least identified, a few more dollars of effort to help private investigators who are pursuing a matter of great public interest would seem eminently justified.

If the Department of Justice is either too busy or too disinterested to help, the least that they can do is not stand in the way of others who are trying, albeit unsuccessfully.

Sincerely yours,


Bernard Fensterwald, Jr.

BF/is

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DECLARATION

RICHARD BILLINGS, makes the following declaration:

1. My name is Richard Billings, and I reside at 3416 Porter Street, N.W., Washington, D.C. 20016.
2. During the years 1978 through 1979, I was a professional staff member of the House Select Committee on Assassinations.
3. One of my principal duties on the staff was the coordination of the Committee's final Report. Because of this responsibility, I had broad knowledge of the activities of the staff in general.
4. One of the more important leads followed by the Committee was the so-called French Connection, which dealt with the Report that one or more French mercenaries were present in Ft. Worth and Dallas on November 22, 1963, and were expelled within 48 hours by the United States Government. Specifically the French Government informed the Federal Bureau of Investigation that one Jean Rene Souetre, a dangerous deserter from the French Army during the Algerian War, was in Dallas on the afternoon of the murder; they wished to know to which country he was expelled and why.
5. The Committee sent an investigator to France and to other places in an attempt to follow out this lead.
6. When the Committee was discontinued in early 1979, this was one of the more important "open leads" which remained.
7. The Committee concluded that President Kennedy probably died as a result of a conspiracy, yet was unable to name any of the conspirators.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 19th day of October, 1982.


RICHARD BILLINGS

C.A. No. 82-1667
82-1832
82-1833
82-2681

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