

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J. GARY SHAW and MARK ALLEN,)
)
 Plaintiffs,)
)
 v.) Civil Action Nos. 82-1602,
) 82-2108, 82-2109, 82-2110,
) 82-2128, 82-2130, 82-2156,
 FEDERAL BUREAU OF INVESTI-)
 GATION,) 82-2379, 82-2522, 82-2523,
) 82-2679 and 82-2680
 Defendant.)
)
) *dismissed (w/out prej)*

DEFENDANT'S STATEMENT PURSUANT
TO ORDER FILED DECEMBER 17, 1982

I. Introduction--and Plan for Completing the
Processing of Documents

Immediately after the status hearing on December 7, 1982, counsel for plaintiffs met briefly with counsel for defendant and employees of the Federal Bureau of Investigation (FBI) to discuss the Court's directions given at the hearing. As a result of that discussion, a subsequent FBI letter (Attachment 1), and a subsequent meeting on December 21, 1982, counsel for plaintiffs has dropped the request relating to Fair Play for Cuba. In addition, at the December 21, 1982 meeting, the parties made further undertakings to facilitate the processing of plaintiffs' requests. ^{1/}

^{1/} For example, plaintiffs' counsel agreed: to drop two additional requests; that, where the only information the FBI has on a request is in the Warren Commission report, the FBI need only state that fact as to the request; and that four requests dealing with the OAS could be consolidated into one request for processing. In one respect, it did not seem possible to reduce the task of processing. This is discussed under "Additional Matters," in Part IV below. In another respect, as a result of the discussion at the December 21, 1982, the task will be increased to some extent, which is also discussed in Part IV.

Furthermore, immediately after the December 7, 1982 status hearing, the FBI added an additional person to the task of processing plaintiffs' requests.

As a result of these developments, the FBI anticipates that all the requests will be processed within ninety days, subject to the relatively minor caveats which are discussed in Part IV below. ^{2/}

We include tables (Attachment 2) with this Statement, which provide, for each request, the following items of information required by the first full paragraph at page 3 of the Court's Order filed December 17, 1982

--the civil action to which each request relates;

--the estimated number of pages that need to be reviewed; ^{3/}

--the steps the FBI has taken to comply with the request;

--what the FBI is prepared to do in the future;

2/ The Order makes reference to a ninety day period from the date of its issuance. Because full staff will not be working during the holiday season, we respectfully ask the Court to construe the ninety day period liberally, i.e., ending March 31, 1983.

3/ In the case of Kennedy assassination materials that have previously been processed, the numbers of pages are those that are contained in reports which include some pages dealing with the subject of the request. Pursuant to agreement at the meeting of December 21, 1982, where the report is thirty pages or less, the entire report will be furnished. Where the report is in excess of thirty pages, the FBI will furnish the title page, the index page, and the pages dealing with the subject of the request.

Because the processing is not expected to take more than ninety days, item (7) in the Court's Order does not require response. ^{4/}

II. Use of Manpower

There are two aspects of the review of the documents: the review of classified documents, and the general FOIA review. The classification review must be undertaken by persons with expertise in the area of intelligence. It is necessary to exercise extreme caution with respect to release of information that may be classified, because information may appear to be innocuous, yet its release may be damaging to national security if combined with other available information by persons sophisticated in intelligence matters. Gardels v. CIA, D.C. Cir. No. 81-1567, September 29, 1982, slip opinion at 9. ^{5/} In addition, where a

^{4/} Item (2) specifies "stating what exemption or exemptions are being invoked." In advance of the processing of documents that is to take place pursuant to this Statement, it would be premature to list the exemptions being invoked. Item (6) provides for the Statement "to indicate with exactitude a reasonable time within which such processing will be completed." The completion date for the entire task has been set at ninety days. It would be very difficult to break down the period of time for each individual request and to forecast the exact sequence in which the requests will be processed, and the length of time required for each of the many requests.

^{5/} Information released under FOIA is available to any requester, so that information disclosed pursuant to a FOIA request is disclosed to the world. .

related body of material is being reviewed, it is hazardous to proper review, as well as unproductive, to divide the task among several classifiers. This is so because it is necessary to have a grasp of the relevant body of material in order to make judgments as to parts of that body of material.

Admittedly, the FOIA review as to matters that do not involve classification is not quite as sensitive as the review for classification. Nevertheless, important concerns are protected by the other FOIA exemptions; e.g., the protection of privacy against unwarranted invasion, and protection of confidential sources and information received from such sources. The FOIA review must also be done carefully and by FBI employees of sufficient training, experience and skill to protect legitimate concerns recognized by the exemptions. The FBI has assigned two such employees to the review of the documents to apply FOIA exemptions. In allocating personnel, the FBI has been mindful of other obligations in FOIA litigation and of other FOIA requesters who are also entitled to consideration of their requests. ^{6/} In addition, it is a fact that the application of FOIA exemptions is not an exact science; matters of judgment are involved, and the issues are sufficiently complex that even courts do not always agree with one another, as is shown, for example, by the need for Supreme Court resolution of questions regarding the scope of

^{6/} Attachment 3 to this Statement is the FOIPA Section Work Analysis, Fourth Quarter, Fiscal Year 1982, Dated October 8, 1982.

exemptions 3, 6 and exemption 7(c). If the number of reviewers of related requests is multiplied, it increases the possibility of differing judgments as to similar materials. It is respectfully submitted that such potential for variation would unnecessarily increase the complexity of litigating these consolidated cases, once the processing of documents has been completed. This is an additional reason why the FBI considers it appropriate to allocate two skilled analysts to the task involved in these consolidated cases, especially since the processing will be completed in ninety days.

III. Actions That Have Been Taken On Plaintiffs' Requests

Item (3) of the Court's Order provides that the FBI shall outline the steps it has taken to comply with each request, and this information is included in tabular form in Attachment 2. In view of the number of requests, it may be helpful to state more comprehensively how the FBI has sought to organize and deal with the requests in order to handle them in an orderly, rational and responsible way.

Plaintiffs' requests were received over the period March 12 to June 2, 1982. In addition to interim responses to plaintiffs' request letters, the FBI, by letter dated June 23, 1982, organized plaintiffs' requests to FBI headquarters into five categories. ^{7/} Attachment 4.

4/ Requests to the field offices were handled on a case-by-case basis.

Category A--Requests pertaining to ascertainable events, items, organizations or known deceased individuals for which a search of the indices to FBI central records system is being conducted.

Category B--Requests pertaining to persons or events for which a search reveals that that the FBI does not have a record.

Category C--Requests pertaining to organizations which are inadequately identified for the purpose of searching the indices to the central records system.

Category D--Requests pertaining to persons presumed to be alive.

Category E--Requests pertaining to individuals whom plaintiffs asserted to be deceased, but for whom no supporting evidence of death was furnished.

The FBI explained its approach to each of these categories in its June 23, 1982 letter.

By letter dated June 29, 1982, plaintiffs, while disagreeing with various aspects of the June 23, 1982 letter, acknowledged that it was "very thorough." Attachment 5 (but without its attachments).

By letter dated September 9, 1982, the FBI advised plaintiffs of changes in status and/or final disposition of some of plaintiffs' requests. Attachment 6.

By letter dated October 15, 1982, the Office of Information and Privacy of the Department of Justice advised plaintiffs' attorney of its decision regarding plaintiffs' administrative appeals. Attachment 7. ^{8/}

^{8/} By letter dated October 20, 1982, plaintiffs' counsel commented on the Justice Department letter. Attachment 8.

Since that date, the FBI has communicated further with plaintiffs' counsel with regard to plaintiffs' requests, by letters dated December 9, 1982 (Attachment 9), December 15, 1982 (Attachment 1), and December 21, 1982 (Attachment 10). ^{9/}

IV Additional Matters

At the December 21 meeting referred to above, the parties discussed, inter alia, the processing of the OAS-requests. There are between 190-200 pages. These include approximately 160 pages in the main file; the remainder (contained in sixteen documents) constitute "see" references. The "see" references are scattered through voluminous (16 sections of file, comprising approximately

^{9/} The text states steps that were taken administratively in response to plaintiffs' requests, and the attached tables further reflect those steps in regard to each request. In addition, it has been necessary for the FBI to supply to the United States Attorneys' Office litigation reports and affidavits in order to enable the Assistant United States Attorney to respond, as required under the Federal Rules of Civil Procedure, in the litigation. Although it is true that there is a good deal of information that is common to the various responsive pleadings and memoranda, it is also true that answers to the twelve complaints contained specific factual responses to the 117 counts included in those complaints. This entailed keeping the United States Attorney's Office apprised of the status, at time of filing the answers, of the sixty-two requests to headquarters and the fifty requests to field offices. Similarly, the affidavits prepared to support the FBI's response to plaintiffs' motions to compel production and for preparation of a Vaughn index included reports on the status of requests in the particular cases in which the affidavits were filed. Also it has been necessary for the FBI to respond to needs in other FOIA litigation brought by plaintiffs' counsel's law firm dealing with the assassination of President John F. Kennedy.

3200 pages) files. The main file appears to present no significant problem insofar as either the burden on the FBI is concerned or our ninety day undertaking to the Court. However, the "see" references present the following difficulty, as discussed at the meeting. In order for a classification review to be made of the sixteen "see" references, classifiers must review all of the extensive files in which they are contained, and not merely the sixteen documents. This is so because classification decisions cannot be made properly absent an understanding of the context of the material reviewed. Obviously, it would simplify the FBI's task and expedite the process if the "see" references could be eliminated. The parties were unable to do so at the December 21, 1982 meeting.

Also, at the December 21, 1982 meeting, plaintiffs' counsel indicated that he would present proof of death as to some four individuals who are the subject of plaintiffs' requests. 10/

10/ This is significant because, under the FBI policy as modified by the Justice Department (see Attachment 7), the FBI will search the indices to Kennedy files and process retrieved documents as to any individual, even without authorization by the individual or proof of death. If individuals are listed in the so called "Meagher" index, the FBI will conduct a general search of its indices, again without such authorization. However, because of privacy consideration, the FBI does not confirm or deny the existence of records outside the Kennedy files absent authorization or proof of death. This was expressly upheld in Blakey v. Department of Justice, et al., D.D.C. No. 81-2174, decided October 18, 1982 (Attachment 11) (case also brought by plaintiffs' counsel's law firm), citing Baez v. United States Department of Justice, 647 F.2d 1328, 1338-39 (D.C. Cir. 1980) and Fund for Constitutional Government v. National Archives, 656 F.2d 865, 856, 863 (D.C. Cir. 1981).

The FBI had requested such proof of death some time ago, because of its effect on the search and processing of documents. Now that the FBI will be receiving such proof, it will affect to some extent the scope of the task as envisioned prior to the December 21, 1982. It is doubtful that this development will affect the anticipated ninety day period, but we alert the Court to it.

V. Conclusion

We have endeavored to respond fully to the Court's Order filed December 17, 1982.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Statement and its attachments was mailed to plaintiffs' counsel, Bernard Fensterwald, Jr., Esq., 1000 Wilson Boulevard, Suite 900, Arlington, Virginia, 22209, this 23rd day of December, 1982.



NATHAN DODELL
Assistant United States Attorney
U.S. District Courthouse
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Third and Constitution Avenue, N.W.
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(202) 633-4978

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



U.S. Department of Justice
Federal Bureau of Investigation

Washington, D.C. 20535

DEC 15 1982

Bernard Fensterwald, Jr., Esq.
Fensterwald and Associates
Suite 900
Twin Towers Building
1000 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Fensterwald:

Reference is made to your Freedom of Information-Privacy Acts (FOIPA) requests, on behalf of your clients, Mr. J. Gary Shaw of Cleburne, Texas and Mr. Mark Allen of Washington, D. C., for information pertaining to the below-listed subjects.

Request Number
224,507

Subject
Relationships/Communications
between O.A.S. and any agency/
department of U.S. Government
(1961-64).

224,526

Activities of O.A.S. in Canada/
Caribbean/U.S. (1961-64).

224,817

American sympathizers with
O.A.S. (1961-64).

225,026

"Organization Renseignement
Operation (1961-65).

226,227

Fair Play for Cuba Committee
(FPCC).

Bernard Fensterwald, Jr., Esq.

By letters dated June 23, 1982 and September 9, 1982, you were advised that a complete and thorough search of the indices to our central records system, at Federal Bureau of Investigation (FBI) Headquarters (HQ), was being conducted. Please be advised that this search has been completed and that documents which appear to be responsive to the above requests have been located.

Based on the information which you provided in your request letter dated May 4, 1982, the complete and thorough search of the central records system was conducted in an effort to locate all references to the FPCC in the records maintained at FBIHQ, Washington, D. C. The material which appears to be responsive to your request, for information pertaining to the FPCC, consists of 133 sections of material directly related to the FPCC and approximately 130 "see" references to the FPCC in the files which pertain to other FBI investigations. Please be advised that approximately fifty of these "see" references are located in the files pertaining to the investigation of the assassination of President Kennedy which have been previously processed, pursuant to the provisions of the FOIPA, and are available for your review in the FOIPA Reading Room at FBIHQ. With regards to the 133 sections of material directly related to the FPCC, please be advised that 129 sections of this file relate to the FBI's investigation of the FPCC in the United States and four sections relate to the activities of the FPCC in Cuba and Canada.

Based on the limited information which you provided, in your request letters, on the subject matter of FOIPA request numbers 224,507, 224,526, 224,817 and 225,026, it is not possible to make an accurate search of the indices to our central records system. Therefore in order to locate any material responsive to your requests, a complete and thorough search of the indices to our central records system was conducted for all references pertaining to the Organization Armee Secrete (OAS). This search has been completed and the documents pertaining to the OAS have been located. This material consists of one section of material directly related to the OAS and sixteen "see" references in the files which pertain to other FBI investigations. Please be advised that none of the "see" references are located in the files pertaining to the assassination of President Kennedy or in the files which pertain to the FPCC.

Bernard Fensterwald, Jr., Esq.

The above information is being furnished to you pursuant to a discussion between yourself and representatives of the FBI subsequent to the status hearing on December 7, 1982. Based on this discussion and the above information, it is our understanding that you are withdrawing your request for information pertaining to the FPCC (FOIPA request number 226,227) and you are willing to meet with us and our attorney concerning your requests for information pertaining to the OAS (FOIPA) request numbers 224,507, 224,525, 224,817 and 225,026). At such a meeting we will orally provide a description of documents responsive to the four OAS related requests, with the thought that you may be able to eliminate documents. As also discussed on December 7, 1982, this same approach might be applicable to eliminate documents responsive to other requests. Accordingly, before taking any further action on these requests, we will await the contemplated meeting which we would promptly seek to arrange.

Sincerely yours,

James K. Hall, Chief
Freedom of Information-Privacy
Acts Section
Records Management Division

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

CIVIL ACTION NUMBER 82-1602

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
224,746	3/24/82	Visit by DeGaulle to Mexico City in March, 1964	Processing	20
224,817	3/26/82	American sympathizers with O.A.S. during period 1961-64	CLOSED Withdrawn by plaintiffs' attorney 12/21/82	
224,950	3/27/82	Independence Movements In Guadeloupe and Martinique during period 1960-64	CLOSED No record response to plaintiffs' attorney 9/9/82	
225,026	3/31/82	Organization Renseignement Operation during period 1961-65	CLOSED Withdrawn by plaintiffs' attorney 12/21/82	
225,078	4/1/82	Permanent Industrial Exhibition (PERMINDEX) during period 1958-63	CLOSED No record response to plaintiffs' attorney 9/9/82	
225,079	3/30/82	Jean-Claude Perez	CLOSED Plaintiffs' attorney advised no record of JFK related material 12/9/82	
225,212	4/3/82	William George Gaudet	Processing JFK related material only	1700

CIVIL ACTION NUMBER 82-1602

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
225,226	4/2/82	Centro Mondiale Commerciale during period 1958-63	CLOSED No record response to plaintiffs' attorney 9/9/82	
225,403	4/6/82	William Dalzell	Processing JFK related material only	120
225,558	4/7/82	Jerry Milton Brooks	Processing JFK related material only	60

CIVIL ACTION NUMBER 82-2108

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
224,134	3/8/82	W. Guy Banister	CLOSED 13 pages of material released 8/4/82; Exemption (b)(6) cited.	
224,133	3/9/82	Jacques Roy	CLOSED No record response to plaintiffs' attorney 5/14/82	
224,265	3/11/82	Laszlo Vargas	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
224,266	3/12/82	Guyla Sari	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
224,132	3/10/82	Eugene Barry Dinkin	Processing JFK related material only	1200
224,393	3/11/82 received by LEGAT, Mexico City forwarded to FBIHQ 3/17/82	Albert Osborne aka John Bowen	Re-checking Mexico City Office for records; FBIHQ will process all material at FBIHQ; Subject is deceased	3000

CIVIL ACTION NUMBER 82-2108

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
224,394	3/12/82 received by LEGAT, Paris forwarded to FBIHQ 3/19/82	Pierre Sergent	CLOSED Withdrawn by plaintiffs' attorney 12/21/82	
224,264	3/15/82	Ferenc Nagy	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
224,507	3/18/82	Relationships/Communications between O.A.S. and any U.S. agency during period 1961-64	CLOSED Withdrawn by plaintiffs' attorney	
224,856	3/19/82	Anti-Gaullist activities in Western Hemisphere during period 1960-64	CLOSED No record response to plaintiffs' attorney 9/9/82	

CIVIL ACTION NUMBER 82-2109

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Stepst to be taken by the FBI	NUMBER OF PAGES
New Orleans (NO)	3/12/82	Anti-Communist League of Caribbean during period 1960-65	CLOSED No record response to plaintiffs' attorney by field office 3/29/82	
NO	3/11/82	Maurice Brooks Gatlin	Plaintiffs' attorney advised field office file destroyed and FBIHQ would handle all responses to request 8/23/82; plaintiffs' attorney advised by FBIHQ 12/10/82 that auxiliary field office were furnishing records to FBIHQ for processing	950
NO	3/13/82	Existence of Lee Harvey Oswald imposter	Duplicate of request in CA 82-2110 CLOSED Plaintiffs' attorney advised document not responsive to request 10/5/82	
NO	3/16/82	Schlumberger Well Services during period 1959-64	CLOSED No record response to plaintiffs' attorney 4/5/82	

CIVIL ACTION NUMBER 82-2109

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
NO	3/15/82	Jerry Milton Brooks	Processing JFK related material only	5
NO	3/18/82	Hugh Ward	CLOSED No record response to plaintiffs' attorney 4/5/82	
NO	3/9/82	Jacques Roy	Plaintiffs' attorney to be advised no record of JFK related material based on field office indices search	
Miami (MM)	3/8/82	Miguel Casas Saez	Plaintiffs' attorney to be advised no record of JFK material based on field office indices search	
IM	3/10/82	Alpha-66 during period 1960-64	CLOSED No record (for specific time period) response to plaintiffs' attorney 6/7/82	
New York (NY)	3/10/82	Spas T. Raikin	Processing JFK material only	10

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
NY	3/13/82	Gloria Orsony	Plaintiffs' attorney to be advised no record of JFK material based on field office indices search	
Houston (HO)	3/13/82	Gloria Orsony	Plaintiffs' attorney to be advised no record of JFK material based on field office indices search	
HO	3/17/82	Schlumberger Well Services during period 1959-64	CLOSED No record response to plaintiffs' attorney 4/1/82	

CIVIL ACTION NUMBER 82-2110

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
224,526	3/20/82	Activities of O.A.S. in Canada/U.S./ Caribbean during period 1961-64	Processing all material at FBIHQ; Classification review required	200
224,831	3/23/82	Attendance of DeGaulle at JFK funeral	CLOSED 4 pages of material released 8/4/82; No exemptions cited	
224,747	3/25/82	Attempts on life of DeGaulle during period 1961-64	CLOSED All material forwarded to other government agencies for direct response to plaintiffs' attorney 9/9/82	
225,428	4/9/82	Existence of Lee Harvey Oswald imposter	CLOSED Plaintiffs' attorney advised No material responsive to request located 10/5/82	
225,429	4/8/82	Pierre Quang Diez De Ure	Plaintiffs' attorney to be advised NO RECORD of JFK related material	

CIVIL ACTION NUMBER 82-2110

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
225,553	4/10/82	M. Francois Duprat	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
225,581	4/13/82	Jean Denis Raingeard during period 1960-64	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
225,580	4/12/82	Ferenc Farkas De Kisbarnak	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
225,583	4/14/82	Jean Petit	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
225,775	4/16/82	Ressurrection - Patrie	CLOSED No record response to plaintiffs' attorney 9/9/82	

CIVIL ACTION NUMBER 82-2128

11

FIELD OFFICE or LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
Dallas (DL)	3/8/82	Jacques Roy	Plaintiffs' attorney to be advised no record in JFK material based on field office indices search	
DL	4/9/82	Paul M. Raigorodsky	Processing JFK related material only	10
DL	4/10/82	Robert Perrin aka Jack Starr	Subject is deceased Processing all material	150
DL	4/12/82	Gloria Orsony	Processing JFK related material only	50
DL	3/9/82	Manuel Rodriguez Orcarberro	Processing JFK related material only	90
Newark (NK)	3/18/82	Spas T. Raikin	Plaintiffs' attorney to be advised no record in JFK material based on field office indices search	
Cincinnati (CI)	3/9/82	Elizabeth Catlett Mora	Plaintiffs' attorney to be advised no record in JFK material based on field office indices search	

CIVIL ACTION NUMBER 82-2128

1

FIELD OFFICE or GAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
CI	3/8/82	Spas T. Raikin		
San Antonio (SA)	3/11/82	Albert Osborne aka John Bowen	Plaintiffs' attorney to be advised no record in JFK material based on field office indices search Subject is deceased Processing all material	300

FIELD OFFICE OF LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
New Orleans (NO)	3/26/82	Perry Raymond Russo	Processing JFK material only	1200 pages
NO	4/2/82	Dr. Carlos Bringuier	Processing JFK material only	500 pages
NO	3/17/82	Layton Patrick Martens	Processing JFK material only	120 pages
No	3/30/82	Guy L. Johnson	Processing JFK material only	5 pages
No	3/27/82	David William Ferrie	Processing all material. Subject is deceased.	1550 pages
NO	3/23/82	Free Cuba Committee	Acknowledge receipt of request 8/25/82, advising one "see" reference located and available at FBIHQ Reading Room. Awaiting plaintiff's attorney's response.	
No	3/22/82	Friends of Democratic Cuba	Advised plaintiffs' attorney that one "see" reference is possibly identical to subject of request and that should contact FBIHQ to review this reference at the FOIPA Reading Room 7/9/82.	

CIVIL ACTION NUMBER 82-2130

1

FIELD OFFICE OF LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
No	4/5/82	Clay Shaw	Processing all material. subject deceased.	500 pages
Dallas (DL)	3/17/82	Peter Paul Gregory	Processing JFK material only.	125 pages
DL	3/19/82	Major General Edwin A. Walker	Processing JFK material only.	670 pages

CIVIL ACTION NUMBER 82-2156

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
225,786	4/19/82	Jacqueline Lancelot	Plaintiffs' attorney to be advised NO RECORD of JFK related material	40
225,764	4/20/82	Herman Edward Kimsey	Processing JFK related material only	
225,808	4/21/82	J.C. Duvall	Withdrawn by plaintiffs' attorney 12/21/82	
225,872	4/22/82	Louis Mortimer Bloomfield	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
226,115	4/23/82	Oswald visit(s) to Mexico during period 1962-63	Processing completed; material released to plaintiffs' attorney 8/4/82; Additional material to be duplicated and released to plaintiffs' attorney per request of 12/21/82	
226,209	4/28/82	1955 Green Ford automobile	CLOSED No record response to plaintiffs' attorney 9/9/82	

CIVIL ACTION NUMBER 82-2156

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
226,074	4/28/82	Gloria Orsony	Processing JFK related material only	5
226,033	4/27/82	Jean De Menill	Plaintiffs' attorney to be advised only public source material located; material to be described	
224,861	3/8/82	Clemard Joseph Charles	Plaintiffs' attorney to be advised only public source material located; material to be described	
226,078	4/29/82	Elizabeth Catlett Mora	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	

CIVIL ACTION NUMBER 82-2379

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
226,741	5/20/82	Miguel Casas Saez	Closed Plaintiffs' attorney advised NO RECORD of JFK related material	
226,557	5/17/82	Roy William Pike	Processing JFK related material only	1300
226,639	5/18/82	Manuel Rodriguez Orcarberro	Processing JFK related material only	100
226,590	5/19/82	John Thomas Masen	Processing JFK related material only	700
226,146	4/30/82	Dean Adams Andrew, Jr.	Processing JFK related material only	1600
226,171	5/3/82	Dr. Carlos Bringuier	Processing JFK related material only	4700
226,227	5/4/82	Fair Play for Cuba Committee (FPCC)	CLOSED Withdrawn by plaintiffs' attorney 12/21/82	

CIVIL ACTION NUMBER 82-2522

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
226,553	5/14/82	Peter Paul Gregory	Processing JFK related material only	6000
226,387	5/10/82	Spas T. Raikin	Processing JFK related material only	850
226,358	5/11/82	Delesseps Morrison during period 1960-65	Processing all material; subject is deceased	1000
226,554	5/13/82	Enrique Ruedolo Concora	Processing JFK related material only	100
226,447	5/12/82	Gilberto Policarpo Lopez	Processing JFK related material only	900
226,351	5/7/82	Nadine Bestougeff	Processing JFK related material only	2000

CIVIL ACTION NUMBER 82-2523

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
226,759	5/24/82	David G. Copeland	CLOSED No record response to plaintiffs' attorney 12/21/82	
226,832	5/26/82	Dallas to Havana airplane flight on 11/22/63	CLOSED No record response to plaintiffs' attorney 9/9/82	
226,935	6/1/82	Jacques Soustelle	CLOSED Plaintiffs' attorney advised NO RECORD of JFK related material 12/9/82	
226,115	3/15/82 reviewed by LEGAT City; forwarded to FBIHQ 4/1/82	Oswald visit(s) to Mexico during period 1962-63	Duplicate of request in C.A. 82-2156; Material released to plaintiffs' attorney 8/2/82; Additional material to be duplicated and released to plaintiffs' attorney; All processing completed	
226,859	5/28/82	Silvia Odio during period 1960-64	Processing JFK related material only	1300
226,858	5/27/82	Kerry Wendell Thornley	Processing JFK related material only	1800

CIVIL ACTION NUMBER

82-2523

FOIPA REQUEST NUMBER	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
226,760	5/25/82	Letter from Hale Boggs to Lee Rankin, dated 5/15/82, re: General Edwin Walker	Plaintiffs' attorney to be advised no material responsive to request could be located	
224,860	3/8/82 received by LEGAT, Mexico City; forwarded to FBIHQ 3/17/82	Silva Duran	FBIHQ will re-check for records in Mexico City; All processing of JFK related material to be done at FBIHQ	1350

FIELD OFFICE OR LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
Miami (MM)	3/11/82	Friends of Democratic Cuba	Closed No record response to plaintiffs' attorney 6/2/82.	
MM	3/15/82	David William Ferrie	Closed No record response to plaintiffs' attorney 4/2/82; Recheck request by plaintiffs' attorney; Second no record response to plaintiffs' attorney 6/2/82.	
New Orleans (NO)	4/3/82	Robert Perrin, aka Jack Starr	Closed No record response to plaintiffs' attorney 4/22/82 ; Recheck requested by plaintiffs' attorney; Second no record response to plaintiff's attorney 6/15/82.	
NO	3/25/82	Raid on Anti-Castro Training Camp	Closed No record response to plaintiffs' attorney 4/7/82; Recheck requested by plaintiffs' attorney; Second no record response to plaintiff's attorney 6/15/82 . . .	

CIVIL ACTION NUMBER 82-2679

FIELD OFFICE or LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
MM	3/16/82	Fair Play for Cuba Committee	<p>CLOSED No record response to plaintiffs' attorney 3/24/82; Rechecking requested by plaintiffs' attorney; Second no record response to plaintiffs' attorney.</p>	
MM	3/9/82	Intercontinental Penetration Force aka Interpen	<p>CLOSED No record response to plaintiffs' attorney 3/18/82; Recheck requested by plaintiffs' attorney; Second no record response to plaintiffs' attorney 6/2/82</p>	
NO	3/8/82	W. Guy Banister	<p>CLOSED No record response to plaintiffs' attorney 3/24/82; Recheck requested by plaintiff's attorney; Second no record response to plaintiff's attorney 6/15/82</p>	
MM	3/12/82	Free Cuba Committee	<p>CLOSED No record response to plaintiff's attorney 3/24/82; recheck requested by plaintiff's attorney; Second no record response to</p>	

FIELD OFFICE OR LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
NO	3/19/82	Perminex (Permanent Industrial Exhibition) Corporation of Basel, Switzerland	<p>CLOSED No record response to plaintiffs' attorney 4/6/82; Recheck requested by plaintiffs' attorney; Second no record response plaintiffs' attorney 6/15/82.</p>	
Dallas	3/18/82	Free Cuba Committee	<p>CLOSED No record response to plaintiffs' attorney 3/30/82; Recheck requested by plaintiffs' attorney; Second no record response to plaintiffs' attorney 6/14/82.</p>	
NO	3/20/82	Centro Mondiala Commerciale (CMC)	<p>CLOSED No record response to plaintiffs' attorney 4/6/82; Recheck requested by plaintiffs' attorney Second no record response to plaintiffs' attorney 6/15/82.</p>	

FIELD OFFICE OF LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
224,833	3/22/82	Visit by DeGaulle to New Orleans and Caribbean during 1963	No record response to plaintiffs' attorney 6/1/82; Recheck requested by plaintiff's attorney; Plaintiffs' attorney advised 9/9/82 by FBI recheck of indices would be conducted; FBI recheck decision affirmed by DOJ 10/15/82; Recheck completed 12/16/82; Second no record response to besent to plantiffs' attorneys'	
224,394	3/12/82 received by LEGAT, Paris; forwarded to FBIHQ 3/19/79	Pierre Sergent	Withdrawn by plaintiffs' attorney 12/21/82	
224,393	3/11/82 received by LEGAT Mexico City; forwarded to FBIHQ 3/17/82	Albert Osborne, aka John Bowen	Duplicate of request in C.A. 82-2108. Rechecking Mexico City Office for records; FBIHQ will process all material; Subject is deceased	3000

CIVIL ACTION NUMBER 82-2680

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ELD FICE OF CAL TACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
224,860	3/8/82 recieved by LEGAT Mexico City; forwarded to FBIHQ 3/17/82	Silvia Duran	Re-checking LEGAT Mexico City for JFK references. Indices search at FBIHQ for reference in JFK records conducted; will process JFK related material only.	1350

CIVIL ACTION NUMBER 82-2680

FIELD OFFICE OF LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI steps to be taken by the FBI	NUMBER OF PAGES
NO	6/7/82	Visit by General deGualle to New Orleans and the Caribbean in May, 1963	CLOSED No record response to plaintiff's attorney 6/18/82.	
NO	3/10/82	William George Gaudet	CLOSED Main file denied by Field, 8 "see" references referred to FBIHQ for handling, 5/24/82. "See" references sent to plaintiff's attorney by FBIHQ.	
DL	3/10/82	Airplane flight to Havanna from Dallas about 11/22/63	Plaintiffs' attorney advised 1 "see" reference available at Reading Room, FBIHQ 6/14/82. No response from plaintiff's attorney.	
NO	3/24/82	Raid by Anti-Castro supporters on Schlumberger bunker, 1961.	CLOSED No record response to plaintiff's attorney 4/7/82; Recheck requested by plaintiff's attorney; Second no record response to plaintiff's attorney 6/15/82.	

CIVIL ACTION NUMBER 82-2680

FIELD OFFICE OF LEGAL ATTACHE	DATE OF REQUEST LETTER	SUBJECT OF REQUEST	STATUS Steps taken by the FBI Steps to be taken by the FBI	NUMBER OF PAGES
DL	3/12/82	Ferenc Nagy	Plaintiff's attorney to be advised no record of JFK material based on field office indices search.	
DL	3/11/82	Miguel Casas Saez	Plaintiff's attorney to be advised no record of JFK material based on field office indices search.	
DL	4/5/82	David G. Copeland	CLOSED No record response to plaintiff's attorney 6/23/82.	

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

10/8/82

FOIPA SECTION WORK ANALYSIS
FOURTH QUARTER FISCAL YEAR 1982

REQUESTS

During the fourth quarter FY 82, we received 2,705 new requests, an average of 42.9 per day. In comparing FY 81 with FY 82, new requests have dropped from 12,686 to 12,102. For FY 82 we have received an average of 48 new requests per day, which is less than the 50.7 average received for FY 81.

CLOSINGS

Closings through processing for FY 82 were 4,502 as compared to 5,346 during FY 81. In FY 82 cases closed other than through processing total 7,978 which is 1,182 less than for FY 81.

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FOIPA QUARTERLY WORK ANALYSIS FOURTH QUARTER, FY 82	FOURTH QUARTER FY 82	FOURTH QUARTER FY 81	FY 82	FY 81
NEW REQUESTS	2705	2745	12102	12686
WOKHDAYS	63	64	252	250
AVERAGE DAILY RECEIPTS	42.9	42.8	48	50.7
REOPENED REQUESTS	365	385	1298	1465

CLOSINGS FIGURES BELOW ARE BASED ON THE THREE MONTH PERIOD FROM 7/6/82 TO 10/1/82

NO RECORDS	671	714	2466	3081
NO RECORD MAIN FILE	349	545	1792	2274
INFO/NOTIFY	626	423	2302	2237
ADMINISTRATIVE	320	235	1271	1105
PRE-PROCESSED	61	78	147	463
TOTAL	<u>2027</u>	<u>1995</u>	<u>7978</u>	<u>9160</u>

THRU PROCESSING:

UNIT A	412	428	1315	1587
U	132	265	576	1230
C	149	218	677	792
D	124	151	562	484
E	207	184	710	622
F	<u>166</u>	<u>189</u>	<u>662</u>	<u>631</u>
TOTAL	1190	1435	4502	5346
GRAND TOTAL OF CLOSINGS	<u>3217</u>	<u>3430</u>	<u>12480</u>	<u>14506</u>
WORK ON HAND	4775	4075	4775	4075

10/8/82

Following is a breakdown of closings comparing Fourth Quarter 1982 figures with Fiscal Year 82 and Fiscal Year 81 figures.

CLOSINGS	FOURTH QUARTER		FY 82		FY 81	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
Through processing	1190	37	4502	36	5346	36.9
Other	<u>2027</u>	<u>63</u>	<u>7978</u>	<u>64</u>	<u>9160</u>	<u>63.1</u>
TOTAL	3217	100	12480	100	14506	100

Following is a breakdown of cases closed other than through processing:

TYPES OF CLOSINGS	FOURTH QUARTER		FY 82		FY 81	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
NR	671	33.1	2466	30.9	3081	33.6
NRMF	349	17.2	1792	22.5	2274	24.8
Info/Notary	626	30.9	2302	28.9	2237	24.4
Administrative	320	15.8	1271	15.9	1105	12.1
Pre-processed	<u>61</u>	<u>3.0</u>	<u>147</u>	<u>1.8</u>	<u>463</u>	<u>5.1</u>
TOTAL	2027	100	7978	100	9160	100

SECTION: TOTALS

	<u>TOTAL</u>	<u>PERCENTAGE</u>
Requests assigned to Disclosure	2214	46.4
Requests assigned to Operations	<u>2561</u>	<u>53.6</u>
TOTAL	4775	100

10/8/82

FREEDOM OF INFORMATION AND PRIVACY ACTS STATISTICS

117,742	New requests received at FBIHQ since 1975
12,531	Total FOIPA requests received at FBIHQ, averaging 49.9 requests per day for CY 81
4,809	Total FOIPA Field Office requests received in CY 81
17,340	Total FOIPA Field Office and Headquarters requests received in CY 81
12,102	Total FOIPA requests received at FBIHQ, averaging 48 requests per day for FY 82
12.8x	Of requests from prisoners during FY 82
6.6x	Of requests from news media and scholars during FY 82
396	Total number of employees handling requests composed of:
237	FOIPA Section, Records Management Division, employees including 20 law trained Special Agents
91	Additional Records Management Division employees including 9 Special Agents
16	Legal Counsel Division employees including 10 law trained Special Agents
52	Field Office employees including 11 Special Agents
	Numbers of additional Records Management Division employees, Legal Counsel Division employees and Field Office employees are based upon the number of hours and equivalent workyears utilized in FOIPA program.
4,775	FOIPA matters on hand as of 10/1/82
\$12,134,932	Cost of FBI FOIPA program for FY 81

The average length of time it takes to process and release documents to requesters is three to five months. The length of time may be shorter or substantially longer depending upon such factors as the nature of the request, the number of documents to be reviewed, whether the documents require classification review, whether the documents were referred to another agency, and whether the documents have previously been processed under the FOIPA.

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



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 23, 1982

Bernard Fensterwald, Jr.
Fensterwald and Associates
Suite 900
Twin Towers Building
1000 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Fensterwald:

Reference is made to your numerous Freedom of Information-Privacy Acts (FOIPA) requests, on behalf of your clients Mr. J. Gary Shaw of Cleburne, Texas and Mr. Mark Allen of Washington, D.C. It has been noted by you that each of your requests relates directly or indirectly to our investigation of the assassination of President John F. Kennedy. We have placed each of your requests into a specific category for administrative purposes. This placement was based on our review of each of your request letters and these administrative categories are as follows:

A) Requests pertaining to ascertainable events, items, organizations or known deceased individuals for which a search of the indices to our central records system at FBI Headquarters (FBIHQ) is being conducted.

B) Requests pertaining to persons or events for which a search reveals that we do not have a record.

C) Requests pertaining to organizations which are inadequately identified for the purpose of searching the indices to our central records system.

D) Requests pertaining to individuals presumed to be alive.

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Mr. Bernard Fensterwald, Jr.

E) Requests pertaining to individuals whom you assert, in your request letters, to be deceased, but for whom no supportive evidence of death has been furnished.

Each of the above-listed categories will be more fully discussed in this letter.

CATEGORY A REQUESTS

In response to these requests, please be advised that a complete and thorough search of the indices to our central records system is being conducted. Following the search, if there is no indication of the existence of the records you seek, you will be so advised. If we have the records you seek, all documents which can be released will be made available at the earliest possible date. These requests are as follows:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,134	W. Guy Bannister
224,746	Visit by De Gaulle to Mexico City (March, 1964)
224,747	Attempts on life of De Gaulle (1961-64)
224,831	Attendance of De Gaulle at JFK funeral
224,856	Anti-Gaullist activities in the Western hemisphere (1960-64)
224,950	Independence movements in Guadeloupe and Martinique (1960-64)
225,078	Permanent Industrial Exhibition- Permindex (1958-63)
225,226	Centro Mondiale Commerciale (1958-63)
225,237	Maurice Brooks Gatlin, Sr. (1960-64)
225,428	Existence of Lee Harvey Oswald imposter
225,775	"Ressurrection-Patrie"
226,115	Oswald visit to Mexico (1962-63)
226,209	1955 green Ford automobile
226,227	Fair Play for Cuba Committee
226,760	Hale Boggs to Lee Rankin letter dated 5/15/64 re: General Edwin Walker
226,832	Dallas to Havana airline flight on 11/22/63

Mr. Bernard Fensterwald, Jr.

With regard to FOIPA request numbers 224,134 and 225,237, please be advised that we acknowledge, as a result of previous research, that Mr. W. Guy Bannister and Mr. Maurice Brooks Gatlin, Sr., are deceased. Please be assured that all of the above-listed requests are being handled as equitably as possible and that all documents which can be released will be made available to you at the earliest possible date.

CATEGORY B REQUESTS

Please be advised that a search of the indices to our central records system at FBI Headquarters revealed no record identifiable with the following requests:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,133	Jacques Roy
224,833	Visit of De Gaulle to New Orleans and Caribbean (May 1963)
224,889	Dominique De Roux

The search for information in response to your requests was limited to those records in our central records system which are maintained at FBIHQ, Washington, D.C. In certain specific instances, information collected in our field office files is not forwarded to FBIHQ. These instances include cases in which the perpetrators of the violation were not developed during the investigation; cases in which the United States Attorney declined prosecution; and cases in which the investigation revealed the allegations were unsubstantiated or, were not within the investigative jurisdiction of the FBI. Therefore, if you believe records which may be responsive to your inquiry are located within the files of an FBI field office and were never reported to FBIHQ, you may write directly to any field office for those materials. If you direct a request to any field office, please indicate in your letter that FBIHQ in Washington, D.C., has processed your initial FOIPA request.

CATEGORY C REQUESTS

Based on the limited information which you provided on these subjects, it is not possible to make an accurate search of the indices to our central records system. Please

Mr. Bernard Fensterwald, Jr.

furnish any additional, specific data that would assist us in locating the material which you seek. Upon receipt of the additional information, we will review the indices to our central records system in an effort to locate any documents which may be responsive to your requests. This category of requests is as follows:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,507	Relationships/Communications between O.A.S. and any agency/department of U.S. Government (1961-64)
224,526	Activities of O.A.S. in Canada/Caribbean/U.S. (1961-64)
224,817	American sympathizers with O.A.S. (1961-64)
225,026	"Organization Renseignement Operation" (1961-65)

Inasmuch as, you did not specifically identify the organization for which the initials O.A.S. stand, an accurate search cannot be conducted on the above-mentioned subjects. Therefore, it will be necessary for you to furnish the FBI with the full name of this organization.

CATEGORY D REQUESTS

As a result of a review of your requests for information pertaining to third party individuals, please be advised that in handling requests concerning a third party, the FBI is governed by all applicable exemptions of Title 5, United States Code (USC), Section 552 (Freedom of Information Act) and also by Title 5, USC, Section 552a, more commonly referred to as the Privacy Act of 1974, Subsection (b) which states in part:

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with prior written consent of, the individual to whom the record pertains

Mr. Bernard Fensterwald, Jr.

Therefore, before we can commence processing your requests for records pertaining to the individuals listed below, we must know whether you have been authorized by these individuals to receive material pertaining to them. It will therefore be necessary for you to submit to the FBI the original of a written authorization, from each person, which has been attested by a Notary Public. Upon receipt of the requested documentation we will conduct a search of our central records system in an effort to locate any documents which may be responsive to your requests for documents pertaining to these individuals. If there is no indication of the existence of the records you seek, you will be so advised. If we have the records you seek, all documents which can be released will be made available at the earliest possible date. This decision is predicated upon a determination that there is insufficient public interest in these individuals, outside the scope of our investigation into the assassination of President John F. Kennedy, to require release of their FBI records, should any exist, under the provisions of the FOIPA. These requests are listed as follows:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,132	Eugene Barry Dinkin
224,265	Laszlo Vargas
224,266	Gyula Sari
224,394	Pierre Sergent
224,860	Silvia Duran
224,861	Clemard Joseph Charles
225,403	William Dalzell
225,429	Pierre Quang Diez De Ure
225,558	Jerry Milton Brooks
225,580	Ferenc Farkas De Kisbarnak
225,581	Jean Denis Raingeard (1960-64)
255,583	Jean Petit
225,786	Jacqueline Lancelot
225,872	Louis Mortimer Bloomfield
226,074	Gloria Orsony
226,078	Elizabeth Catlett Mora
226,171	Carlos Bringuier
226,351	Nadine Bestougeff
226,387	Spas T. Raikin
226,447	Gilberto Policarpo Lopez

Mr. Bernard Fensterwald, Jr.

226,553	Peter Paul Gregory
226,554	Enrique Ruedolo Concora
226,557	William Roy Pike
226,590	John Thomas Masen
226,639	Manuel Rodriguez Orcarberro
226,741	Miguel Casas Saez
226,858	Kerry Wendell Thornley
226,859	Silvia Odio (1960-64)
226,935	Jacques Soustelle (1960-64)

CATEGORY E REQUESTS

By various letters you advised, without supportive evidence, that the third party individuals listed below are believed, by your clients, to be deceased. Please be advised that without supportive evidence to sustain your assertion that these individuals are deceased, we cannot proceed with the processing of your FOIPA requests for information pertaining to these individuals. Such supportive evidence could be in the form of an obituary or a certified true copy of a death certificate. The FOIPA request number assigned to and the subject of each request is listed as follows:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,264	Ferenc Nagy
224,393	Albert Osborne
225,079	Jean Claude Perez
225,212	William George Gaudet
225,553	M. Francois Duprat
225,764	Herman Edward Kimsey
225,808	J.C. Duvall
226,033	Jean De Menill
226,146	Dean Adams Andrews, Jr.
226,358	Delesseps Morrison
226,760	David G. Copeland

Please be advised that absent the requested notarized authorizations or the supportive evidence to sustain your assertion of death it is necessary that you be advised of the provisions of Title 5, USC, Section 552a, subsection (i)(3), which states that any individual who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5000.

Mr. Bernard Fensterwald, Jr.

Accordingly, before proceeding with the processing of the above-listed requests, we will await receipt of the requested documentation. In accordance with the spirit and intent of the FOIPA, it is the policy of the FBI not to indicate whether we do or do not have the records you seek until such documentation is received.

It is noted that some of your requests are for information pertaining to individuals, organizations, or events which we investigated during the course of our inquiry into the assassination of President John F. Kennedy. Please be advised that the FBI records pertaining to the JFK Assassination have been previously processed pursuant to the provisions of the FOIPA and any material, from these files, responsive to your requests, will be made available to you, without the requested documentation, in the FOIPA Reading Room at FBIHQ. You may review these files, at no charge, by making an appointment 48 hours in advance by calling (202) 324-5520.

Please be advised that the decision has also been made that your FOIPA requests will be handled as a series of related requests, and as such, subject to aggregate fees as encompassed within Title 28, Code of Federal Regulations (CFR), Section 16.9(a). Following a preliminary review of material which may be responsive to some of your requests, it is conceivable that duplication costs may exceed \$250.00. Pursuant to Title 28, CFR, Section 16.9 and 16.46, duplication costs are assessed at the rate of ten cents per page. Inasmuch as, Title 28, CFR, Sections 16.9 and 16.46 require notification to a requester when anticipated charges exceed \$25, and since you explicitly requested in your letters to be advised if anticipated charges might exceed \$250.00, this letter constitutes such notification.

I must caution, however, that your indication of approval and consent to incur such fees will not necessarily result in the entire contents of any records, which may be located when the search of our central records indices is completed, being disclosed to you, since we are guided by the provisions of the Freedom of Information Act (Title 5, USC, Section 552) and the Privacy Act of 1974 (Title 5, USC, Section 552a) in disclosing material from our records.

Mr. Bernard Fensterwald, Jr.

Accordingly, before taking any further action beyond completing the search of the indices to our central records system, I will await receipt of written notification from you indicating your willingness to pay duplication fees which may be in excess of \$250.00 in connection with the processing of your requests. No payment should be submitted at this time.

With regard to your request for a waiver of fees for each of the above subjects, it is the policy of the FBI to consider the totality of the requests at one time. Since many of your requests, as indicated above, have not been "perfected," your fee waiver request cannot be considered at this time. Please be advised that a request is deemed to be "perfected" when all information or documentation necessary for the conducting of a complete and accurate search of the indices to our central records system has been received by the FBI. Therefore, until your requests in categories C, D and E are "perfected", consideration of your request for a waiver of fees is being held in abeyance.

If you desire, you may submit an appeal from any denial contained herein. Appeals should be directed in writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States Department of Justice, Washington, D.C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the Freedom of Information-Privacy Acts number assigned to your request so that it may be easily identified.

Sincerely yours,

James K. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

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

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

June 29, 1962

Mr. James K. Hall, Chief
Freedom of Information-Privacy
Acts Section
Records Management Division
Federal Bureau of Investigation
Washington, D.C. 20535

Dear Mr. Hall:

This will acknowledge and thank you for your very thorough letter of June 23rd re multiple FOIA requests on behalf of Messrs. Gary Shaw and Mark Allen.

My remarks shall be keyed to the five categories used in your correspondence.

Category A Requests

At the top of p. 2, you remarked: "Please be assured that all of the above-listed requests are being handled as equitably as possible and that all documents which can be released will be made available to you at the earliest possible date."

Unfortunately, this theory of "equitable" release does not fulfill the requirements of the FOIA, which requires a decision to release, release in part, or withhold in ten days after receipt of the request. I am more than a little familiar with the FOIA and its legislative history. One of the main impetuses for the Act was a desire for prompt and speedy release of records. The FBI's "backlog theory" has resulted in a system whereby, in the past, requesters have often been asked to wait for many months, often years, before receiving the requested records or a denial thereof. Often, the records are no longer of interest, and the system certainly dampens enthusiasm for proper use of the Act.

If some requesters are in no hurry and are willing to "wait their turn," well and good. Others, such as my clients, may feel an urgency and may not be willing to wait beyond the statutory period. They have discovered that the one way to get a request broken out of the "backlog" and into the active search category is to file suit in a District Court. This may clog court calendars, but it is a result, in my view, primarily of the agencies that refuse to recognize that some requesters are not willing to wait months and years beyond the response time specified by Congress.

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Mr. James K. Hall, Chief
June 29, 1982
Page Two

Therefore, your assurance of release "at the earliest possible date" in the instant cases is an insufficient response from the viewpoint of my clients.

Category B Requests

We certainly accept your explanation as to the Request Numbers 224,133 (Jacques Roy) and 224,889 (Dominique de Roux). And we shall proceed to make enquiries of certain field offices with respect to them.

As to Number 224,833 (visit of de Gaulle to New Orleans and Caribbean, May, 1963), we believe that there must be FBI records, as this visit was a major international event, with enormous security overtones for the U.S. The French sent a large security contingency with President de Gaulle, and it seems almost impossible that the FBI did not play a major role in providing protection to this important world leader, during a period in which more than thirty known attempts were made on his life. If the FBI did not participate, it would surely appear to be guilty of a serious breach of duty. Could we suggest that another search of records be made.

Category C Records

We apologize for not spelling out more clearly the meaning of "OAS." The letters stand for Organization Armee Secrete, or, in English, the Algerian Secret Army, which was formed in 1960-61 of both civilians and military deserters who were unalterably opposed to de Gaulle's decision to give independence to Algeria. This group fought both the Algerian "rebels" and de Gaulle's forces, killing and wounding many thousands of people in Algeria, France, and throughout Europe. The hardcore of 2,000-3,000 members of the OAS became a world-wide pool of mercenaries, assassins, etc., after Algerian Independence in July, 1962.

The OAS made a number of requests of the U.S. for military aid. Contacts were made at NATO headquarters between OAS colonels, who had served there, and U.S. military at the Headquarters. A meeting was held in Washington on December 7, 1960 between Richard Bissell (DDP at CIA) and Jacques Soustelle (an OAS leader). A tentative agreement was made on December 21, 1961, between OAS leaders in Algeria and the CIA Station Chief in Paris. Several attempts were made by Jean Rene Souetre and Pierre Sergent, OAS "politicians," and CIA personnel in Europe. Documents relating to these efforts are appended hereto as Attachment A. It is indicated that the FBI received copies of some of these documents.

The Independence for Quebec Movement (FLQ) was largely an OAS effort at its outset.

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Mr. James K. Hall, Chief
June 29, 1982
Page Three

In the Caribbean, the OAS attempted to separate the French Departments in the Caribbean, primarily Martinique and Guadeloupe, as a separate anti-Gaullist State.

There were a number of American sympathizers of the OAS. Among them were the well-known syndicated columnist, William Buckley; the President and Board Chairman of Schlumberger Corp. of Houston, Jean de Menil; CIA contract agent, Wm. George Gaudet in New Orleans; ex-FBI agent William Guy Banister in New Orleans; and General Edwin Walker in Dallas. A pro-OAS newsletter was published in New York; a copy is appended hereto as Attachment B.

The O.R.O. was the "intelligence branch" of the OAS. Two of its leading members were Pierre Sergent and Jean Claude Perez.

Category D and E Requests

My comments on D and E are similar, and I am taking the liberty of commenting on them jointly.

It has been the long held position of the FBI that requests for records concerning individuals under FOIA can be treated as requests under the Privacy Act, hence requiring either a waiver of privacy (for living persons) or proof of death (for deceased persons). In our strongly held view, there is absolutely no legislative authority for such an action. FOIA and the Privacy Act are separate statutes, with separate exceptions and standards and, again in our view, they must be so treated.

Fortunately, the Circuit Court of Appeals for our District agrees with our position. Very recently, in Greentree v. U.S. Customs Service, U.S. App. D.C. Nos. 81-1829 and 1830, the Circuit Court very clearly pronounced that 552a exemptions cannot be applied to 552 cases. "We must conclude . . . that section (b)(2) of the Privacy Act represents a Congressional mandate that the Privacy Act not be used as a barrier to FOIA access."

Furthermore, exemption 6 in 552 applies not to "invasions of privacy," nor even to "unwarranted invasions of privacy" but to "clearly unwarranted invasions of privacy." It is impossible for the FBI to know if disclosure of records would amount to a "clearly unwarranted invasion of privacy" until they locate the records and examine them in the light of the totality of circumstances under which they would be disclosed.

Also our Court of Appeals has held that investigation of the JFK murder is a matter of "interest to the nation," Weisberg v. U.S. Dept. of Justice, 543 F.2d 308 (1976); see also Mark Allen v. CIA, 636 F.2d 1287 (1980). And, in the D.C. Circuit, this must have a clear bearing on disclosure or withholding of a particular record.

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Mr. James K. Hall, Chief
June 29, 1982
Page Four

Hence, refusing even to process Category D and E Requests until receiving a waiver of privacy or proof of death is completely unauthorized under 5 U.S.C. 552. And 5 U.S.C. 552a has no applicability to these requests. In many cases, it is impossible to obtain such documentation; more important, the effort is not required by the FOIA. There may be requesters who are too naive to understand this; Mssrs. Shaw and Allen are not among them.

Let me reiterate my clients willingness to reimburse the FBI up to \$250.00 per request for duplicating fees, if their request for a waiver of fees is ultimately rejected by the FBI and the Courts. However, if a single request produces more than 2,500 pages, we would like to be informed before duplication begins, as we might prefer to examine the records to see which of them, from our viewpoint, is worth the duplication fee.

As we not going to "perfect" our requests by documented waivers of privacy or proofs of death, we request that you pass upon our request for a waiver of fees without further delay.

We have already submitted one appeal from denial for each of our requests. However, we shall submit a joint appeal as suggested by the last paragraph of your letter.

Sincerely yours,



Bernard Fensterwald, Jr.

BF/is
Enclosures

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ATTACHMENT

6

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

U.S. Department of Justice
Federal Bureau of Investigation

Washington, D.C. 20535

SEP 9 1982

Bernard Fensterwald, Jr., Esq.
Fensterwald and Associates
Suite 900
Twin Towers Building
1000 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Fensterwald:

Reference is made to your Freedom of Information-Privacy Acts (FOIPA) requests, on behalf of your clients Mr. J. Gary Shaw of Cleburne, Texas and Mr. Mark Allen of Washington, D.C., to our letter dated June 23, 1982 and to your letter dated June 29, 1982.

By letter dated June 23, 1982 you were advised that a complete and thorough search of the indices to our central records system was being conducted in an effort to locate information which may be responsive to your requests pertaining to ascertainable events, items, organizations or known deceased individuals. These are the requests which had been placed in Category A for administrative purposes. Please be advised that this search has been completed and that, based on the information furnished by you in your numerous request letters, the search of the indices to our central records

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Bernard Fensterwald, Jr., Esq.

system at FBI Headquarters (FBIHQ) revealed no record identifiable with the subjects from Category A listed below:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,856	Anti-Gaullist activities in the Western hemisphere (1960-64)
224,950	Independence movements in Guadeloupe and Martinique (1960-64)
225,078	Permanent Industrial Exhibition-PERMINDEX (1958-63)
225,226	Centro Mondiale Commerciale
225,775	"Ressurrection - Patrie"
226,209	1955 green Ford automobile
226,832	Dallas to Havana airline flight on 11/22/63

The search for information in response to your request was limited to those records in our central records system which are maintained at FBI Headquarters, Washington, D. C. In certain specific instances, information collected in our field office files is not forwarded to FBI Headquarters. These instances include cases in which the identities of the perpetrators of the violation were not developed during the

Bernard Fensterwald, Jr., Esq.

investigation; cases in which the United States Attorney declined prosecution; and cases in which the investigation revealed the allegations were unsubstantiated or not within the investigative jurisdiction of the FBI. Therefore, if you believe records which may be responsive to your inquiry are located within the files of an FBI field office and were never reported to Headquarters, you may write directly to any field office for those materials. If you direct a request to any field office, please indicate in your letter that FBI Headquarters in Washington, D. C., has processed your initial Freedom of Information-Privacy Acts request.

In addition to these requests from Category A, please be advised that the search of the indices to our central records system has also been completed for those requests listed below which are also from this same administrative category.

REQUEST NUMBER

224,746

225,428

226,115

SUBJECT

Visit by DeGaulle to Mexico City (March, 1964)

Existence of Lee Harvey Oswald imposter

Oswald visit to Mexico (1962-63)

Bernard Fensterwald, Jr., Esq.

226,227

**Fair Play for Cuba
Committee (FPCC)**

226,760

**Hale Boggs to Lee
Rankin letter dated
5/15/64 re: General Edwin
Walker**

Documents which appear to be responsive to these requests have been located and will be reviewed pursuant to the provisions of the FOIPA and all documents which can be released will be made available to you at the earliest possible date. Please be assured that all of above-listed requests are being handled as equitably as possible.

With regard to your requests for information pertaining to attempts on the life of President DeGaulle during 1961-64 (FOIPA request number 224,747) and for information pertaining to President DeGaulle's attendance at the Kennedy funeral (FOIPA request number 224,831), please be advised that the review and processing, pursuant to the provisions of the FOIPA, has been completed. Documents which were determined to be responsive to request number 224,747 were forwarded to other agencies of the Federal government for a determination regarding their release inasmuch as the documents originated with the other agencies. These agencies

Bernard Fensterwald, Jr., Esq.

will correspond directly with you concerning these documents. Review and processing of documents responsive to request number 224,831 has also been completed and four pages of documents were released to you, without excisions, by letter dated August 4, 1982. A re-check of the indices, as requested in your letter dated August 10, 1982, revealed no additional information.

With regard to FOIPA request number 224,134 please be advised that the additional search of our indices, as requested by you in your letter dated August 10, 1982, failed to reveal any additional material, not previously forwarded to you by our letter dated August 4, 1982, pertaining to Mr. W. Guy Banister.

In response to your letters dated June 29, 1982, and July 23, 1982, please be advised that a complete and thorough search of the indices to our central records system is being conducted in an effort to locate any material which may be responsive to your requests for information pertaining to the subjects listed below. Following the search, if there is no indication of the existence of the records you seek, you will

Bernard Fepsterwald, Jr., Esq.

be so advised. If we have the records you seek, all documents which can be released will be made available at the earliest possible date. These requests are as follows:

<u>REQUEST NUMBER</u>	<u>SUBJECT</u>
224,507	Relationships/Communications between O.A.S. and any agency/department of U.S. Government (1961-64)
224,526	Activities of O.A.S. in Canada/Caribbean/U.S. (1961-64)
224,817	American sympathizers with O.A.S. (1961-64)
224,833	Visit of DeGaulle to New Orleans and Caribbean (May 1963)
225,026	"Organization Renseignement Operation" (1961-65)
225,237.	Maurice Brooks Gatlin, Sr.

In addition to the above-listed requests, a complete and thorough search is also being conducted for information responsive to your requests for material pertaining to Mr. David G. Copeland (FOIPA request number 226,760) inasmuch as you furnished supportive evidence of death, as requested by letter dated June 23, 1982 and Mr. Delesseps Morrison (FOIPA request number 226,358), inasmuch as it has been determined that Mr. Morrison is deceased as you asserted.

Bernard Fensterwald, Jr., Esq.

By letter dated August 10, 1982, you requested that a description of FBIHQ file 62-109060 and New Orleans (NO) file 89-69 be furnished to you. Please be advised that the complete subject matter of these files is the "Assassination of President John F. Kennedy at Dallas, Texas on November 22, 1963". Both of these files have been previously processed, pursuant to the provisions of the FOIPA, and are available for your review in the FOIPA Reading Room at FBIHQ. You may review these files, at no charge, by making an appointment 48 hours in advance by calling (202) 324-5520. The total pages of releasable material, which is available is as follows:

HQ 62-109060	38,642 pages
NO 89-69	3,314 pages

With regard to your request for a waiver of fees for each of your FOIPA requests, please be advised that representatives of the Office of Legal Policy, Office of Information and Privacy, United States Department of Justice have been in contact with personnel of the FOIPA Section, FBIHQ concerning this matter and you will be advised as soon as a decision has been reached.

If you desire, you may submit an appeal from any denial contained herein. Appeals should be directed in

Bernard Fensterwald, Jr., Esq.

writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States Department of Justice, Washington, D. C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

James K. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

ATTACHMENT

7

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

Washington, D.C. 20530

OCT 15 1982

Bernard Fensterwald, Jr., Esquire
Fensterwald & Associates
Suite 900, Twin Towers Building
1000 Wilson Boulevard
Arlington, Virginia 22209

Re: Appeal No. 82-1076
RLH:MMN:PLH

Dear Mr. Fensterwald:

You appealed on behalf of your clients, Mr. J. Gary Shaw and Mr. Mark Allen, from the actions of the Federal Bureau of Investigation in its letter dated June 23, 1982, on their requests for access to various records which they assert pertain to the assassination of President John F. Kennedy. This response is keyed to the five categories referred to in the Bureau's letter.

CATEGORY A REQUESTS

I have notified the Bureau of your communication. Although the Act authorizes you to treat the failure of the Bureau to act on your clients' requests within the specified time limit as a denial thereof, this Office, because it lacks the personnel resources to conduct the record reviews that are necessary to make initial determinations on requests for records, cannot act until there has been an initial determination by the component. Our function is limited to the review of those records to which access is in fact denied. If your clients are dissatisfied with the substantive action of the Bureau on their requests, simply advise this Office of that fact, and we will then open an appeal on the merits.

CATEGORY B REQUESTS

Subject to your clients' agreement to pay applicable search fees as set forth in 28 C.F.R. §16.9, the Bureau has agreed to conduct an all reference search of its files to determine whether records exist pertaining to the visit of Charles DeGaulle to New Orleans and the Caribbean in May 1963. The Bureau will contact you directly with the results of that search.

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CATEGORY C REQUESTS

Subject to your clients' agreement to pay applicable search fees, the Bureau has advised me that it will conduct additional searches for records in this category based on the information you provided in your appeal letter.

CATEGORY D REQUESTS

Again, subject to your clients' agreement to pay applicable search fees, the Bureau has agreed to look for records on any individuals listed under Category D who appear in the Master Index to the JFK Assassination Investigations compiled by Sylvia Meagher. If any information is located that is pertinent to the Kennedy assassination, the Bureau will process it for release to you.

As to any non-Kennedy related material that may exist on individuals in this category who are listed on the Meagher indices and as to the existence of files on any individuals in this category who are not listed on the Meagher indices, I have decided to affirm the Bureau's action on the ground that to reveal an investigatory interest by the Bureau in a third party, absent that individual's consent or some strong countervailing public interest, would constitute an unwarranted invasion of his personal privacy. 5 U.S.C. §552(b)(7)(C). If documents contained in systems of records on third parties are not required to be released under the FOIA, the Privacy Act then requires their withholding except in circumstances listed in that Act. 5 U.S.C. §552a(b). None of those circumstances allowing release is applicable here.

The case you cite, Greentree v. U.S. Customs, 674 F.2d 74 (D.C. Cir. 1982) is not relevant to this issue. Greentree requires release of records maintained in systems of records exempted from access pursuant to 5 U.S.C. 552a(j)(2) only when requested by the subject of the records and not independently exempt from access under the FOIA. Because your clients are not requesting information concerning themselves and because any investigatory records that do not relate to the Kennedy assassination that may exist on the third parties you have listed would fall within exemption 7(C), the holding in Greentree is inapplicable.

As to those individuals who are not located on the Meagher indices, we will reconsider our affirmance of the Bureau's actions if you submit credible evidence of a significant connection between any of them and the Kennedy assassination.

CATEGORY E REQUESTS

Bureau personnel have advised my staff that you have submitted proof of death for David G. Copeland and that they have agreed that sufficient public interest exists in Delesseps Morrison to warrant a search. As regards the other figures listed, the Bureau has agreed to determine whether any evidence exists in any files that may be maintained on these individuals to show that they are deceased or that they have waived their rights to privacy. If no such evidence exists, the Bureau will treat the records the same as those in Category D.

If your clients are dissatisfied with the Bureau's ultimate action on any of their requests, they may, of course, appeal again to this Office.

FEE WAIVER

With respect to your request for a "fee waiver," we have determined that there is not sufficient basis to require that the general public bear the substantial search and duplication costs involved and it, therefore, will be necessary for your clients to pay these costs.

This determination has been reached after careful consideration of the information provided in your individual FOIA requests and in a document captioned "A Possible French Connection" which you have filed with the Court. From these it appears that your clients are seeking information which they believe may be relevant to certain theories they have developed relating to the assassination of President John F. Kennedy. In our view, based upon the information you have provided and upon the extensive public investigations of the assassination of President Kennedy, the likelihood of any possible connection between the information you seek and the Kennedy assassination is extremely remote and theoretical. Although your clients are certainly entitled to pursue their interest at their own expense, we do not find sufficient basis for a conclusion that disclosure of the information requested would primarily benefit the general public such that public funds should be expended to subsidize your clients' personal theoretical inquiry.

Further, we are mindful that enormous amounts of public funds have already been expended in the investigation of the Kennedy assassination. As you know, the event was investigated by the Dallas Police, the FBI, the Warren Commission and the U.S. House Select Committee on Assassinations. Because of these enormous public expenditures and the body of information already developed, further public expenditure to subsidize personal investigations such as your clients, should be viewed with the closest scrutiny, especially during times of budgetary austerity. So doing, it is

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our conclusion that a waiver of fees for your clients simply cannot be justified.

Nevertheless, in the event that your clients in the future believe that they can demonstrate concretely that information they may obtain under the FOIA is significant new evidence directly pertinent to the Kennedy assassination, we would be willing to reconsider our position with regard to reimbursement to you of payments for the portions of the records containing such information. Should the Bureau itself identify such information, the Bureau would grant a fee waiver as to the relevant information.

Although I am aware that your clients have brought suit concerning these matters, I am required by statute and departmental regulation to advise you of your clients' right to judicial review. Such review is available to them in the United States District Court for the judicial district in which they reside or have their principal place of business, or in the District of Columbia, which is also where the records sought are located.

Sincerely,

Jonathan C. Rose
Assistant Attorney General

By: 
Richard L. Huff, Co-Director
Office of Information and Privacy

ATTACHMENT

8

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 600, TWIN TOWERS BLDG.
1600 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22209

—
(703) 276-8897

October 20, 1982

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

NEW YORK ASSOCIATES
BARB. ULLMAN & LUSTIGMAN
947 THIRD AVENUE
NEW YORK, NEW YORK 10017
—
(212) 761-6686

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.

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Mr. Jonathan C. Rose
Assistant Attorney General
U.S. Department of Justice
October 20, 1982
Page Two

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.

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

8

ATTACHMENT

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CIVIL ACTION NUMBERS:

82-1602
82-2108
82-2109
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82-2523
82-2679
82-2680



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

DEC 9 1982

Bernard Fensterwald, Jr., Esquire
Fensterwald and Associates
Suite 900
Twin Towers Building
1000 Wilson Boulevard
Arlington, Virginia 22209

Dear Mr. Fensterwald:

Reference is made to your numerous Freedom of Information-Privacy Acts (FOIPA) requests on behalf of your clients Mr. J. Gary Shaw of Cleburne, Texas and Mr. Mark Allen of Washington, D.C., to the Office of Information and Privacy (OIP) letter dated October 15, 1982, and to the Federal Bureau of Investigation (FBI) letter dated June 23, 1982.

By referenced FBI letter you were advised that based on our review of your request letters each of your clients' FOIPA requests has been placed in a specific category for administrative purposes. A portion of your clients' FOIPA requests were placed in Category D. These requests were for information pertaining to individuals, other than your clients, presumed to be alive. Another portion of your clients' requests were placed in Category E. These requests were for information pertaining to individuals whom you asserted, in your request letters, to be deceased. You were also advised that, before proceeding with the processing of these requests, it would be necessary for you to submit notarized authorizations from those individuals listed in Category D and supportive evidence to sustain your assertion of death of those individuals listed in Category E and that absent the requested documentation it is the policy of the FBI not to indicate whether we do or do not have the records you seek.

By referenced OIP letter you were advised of the decision by OIP to modify the FBI's complete denial of access to records pertaining to those individuals listed in Categories D and E. Please be advised that a complete and thorough review of the Master Index to the John F. Kennedy (JFK) Assassination Investigations as compiled by Ms. Sylvia Meagher and a search of the indices to the Central Records System at FBI Headquarters (FBIHQ) has been completed for a portion of your clients' FOIPA

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Bernard Fensterwald, Jr., Esquire

requests listed in Categories D and E and that based on the information furnished by you in your request letters, the review of the Meagher index and the search of the FBIHQ indices revealed no record of any JFK Assassination related material identifiable with the below-listed individuals from Categories D and E.

CATEGORY D

REQUEST NUMBER

SUBJECT

224,265

Laszlo Vargas

224,266

Gyula Sari

224,394

Pierre Sergent

225,580

Ferenc Farkas
De Kisbarnak

225,581

Jean Denis Raingeard

225,583

Jean Petit

225,872

Louis Mortimer Bloomfield

226,078

Elizabeth Catlett Mora

226,741

Miquel Casas Saez

226,935

Jacques Soustelle

CATEGORY E

REQUEST NUMBER

SUBJECT

224,264

Ferenc Nagy

225,079

Jean Claude Perez

225,553

M. Francois Duprat

Bernard Fensterwalc, Jr., Esquire

In addition to the above-listed requests a complete and thorough review of the Meagher index and a search of the FBIHQ indices is still being conducted for JFK Assassination related material for the other FOIPA requests listed in Categories D and E. With regards to your requests for information pertaining to Mr. David G. Copeland (FOIPA request number 226,760) and Mr. Delesseps Morrison (FOIPA request 226,358), documents which appear to be responsive to these requests have been located and will be reviewed pursuant to the provisions of the FOIPA and all documents which can be released will be made available to you at the earliest possible date. Please be assured that both of these requests are being handled as equitably as possible.

In addition, as you were advised by referenced OIP letter, if you or your clients submit to the FBI credible evidence of a significant connection between any of the individuals in Categories D and E, for whom the indices search has been completed, and the Kennedy Assassination the FBI will evaluate the evidence and make a determination as to whether or not a re-check of the indices to the Central Record System at FBIHQ.

The search for information in response to your request was limited to those records in our central records system which are maintained at FBI Headquarters, Washington, D.C. In certain specific instances, information collected in our field office files is not forwarded to FBI Headquarters. These instances include cases in which the perpetrators of the violation were not developed during the investigation; cases in which the United States Attorney declined prosecution; and cases in which the investigation revealed the allegations were unsubstantiated or not within the investigative jurisdiction of the FBI. Therefore, if you believe records which may be responsive to your inquiry are located within the files of an FBI field office and were never reported to Headquarters, you may write directly to any field office for those materials. If you direct a request to any field office, please indicate in your letter that FBI Headquarters in Washington, D.C., has processed your initial Freedom of Information-Privacy Acts request.

If you desire, you may submit an appeal from any denial contained herein. Appeals should be directed in writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States

Bernard Fensterwald, Jr., Esquire

Department of Justice, Washington, D.C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

James K. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

ATTACHMENT

10

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



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

Bernard Fensterwald, Jr., Esquire
Fensterwald and Associates
Suite 900
Twin Towers Building
1000 Wilson Boulevard
Arlington, Virginia 22209

DEC 21 1982

Dear Mr. Fensterwald:

Reference is made to your Freedom of Information-Privacy Acts (FOIPA) request, on behalf of your clients Mr. J. Gary Shaw of Cleburne, Texas and Mr. Mark Allen of Washington, D.C., for information pertaining to David G. Copeland (FOIPA request number 226,759) from the files of the Federal Bureau of Investigation (FBI).

By letter dated December 9, 1982, you were advised that documents which appear to be responsive to your request, for information pertaining to Mr. Copeland, had been located and that these documents would be reviewed pursuant to the provisions of the FOIPA. Please be advised that this review has been completed and that based on the limited information which you provided on Mr. Copeland, we are unable to determine if the individual(s) mentioned in the documents are identical with the subject of your clients' request. In addition, please be advised that none of the documents reviewed are related to the FBI's investigation of the assassination of President John F. Kennedy.

The search for information in response to your request was limited to those records in our central records system which are maintained at FBI Headquarters, Washington, D.C. In certain specific instances, information collected in our field office files is not forwarded to FBI Headquarters. These instances include cases in which the perpetrators of the violation were not developed during the investigation; cases in which the United States Attorney declined prosecution; and cases in which the investigation revealed the allegations were unsubstantiated or not within the investigative jurisdiction of the FBI. Therefore, if you believe records which may be

Bernard Fensterwald, Jr., Esquire

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If you desire, you may submit an appeal from any denial contained herein. Appeals should be directed in writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States Department of Justice, Washington, D.C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

James K. Hall, Chief
Freedom of Information-
Privacy Acts Section
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10

ATTACHMENT

11

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82-2379
82-2522
82-2523
82-2679
82-2680

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

G. ROBERT BLAKEY

Plaintiff,

v.

DEPARTMENT OF JUSTICE, et al.,

Defendants.

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)

Civil Action No. 81-2174

FILED

OCT 18 1982

MEMORANDUM AND ORDER

CLERK, U.S. DISTRICT COURT

This case, which commenced as an FOIA action to obtain

quantities of FBI documents related to the assassination of President Kennedy and has provoked considerable acrimony during its course to date, had been distilled prior to hearing into a dispute over a single issue, viz., plaintiff's right to a waiver of defendant's customary charges for copying the remaining materials to which all agree he is entitled. At oral argument, however, controversy revived over two additional issues: the FBI's invocation of Exemption 7(C) to refuse to confirm or deny the existence of additional records concerning one Rogelio Cisneros, and the adequacy of its search for records relating to acoustical analyses conducted in the assassination investigation. These three issues are now before the Court on cross-motions for summary judgment supported by appropriate affidavits on both sides.

I. Fee Waiver

Plaintiff Blakey is currently a professor at the University of Notre Dame Law School, and a former Chief Counsel and Staff Director of the House Select Committee on Assassinations which investigated, inter alia, the assassination of President John F. Kennedy. In June of 1979 Blakey made a formal FOIA request of the Federal Bureau of Investigation for records relating to Lee Harvey Oswald and Jack Ruby, some 50,000 pages of documents in all, and asked for a waiver of all fees imposed for copying them which would otherwise total \$5,196.70.¹ The FBI denied Blakey's

¹ \$1,584.50 for 15,845 pages of Ruby documents and \$3,612.20 for 36,122 pages of Oswald documents at 10 cents per page.

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fee waiver request initially in September, 1979, and the decision was ultimately affirmed by the Office of Privacy and Information Appeals in October, 1981, on Blakey's appeal.

The applicable provision of FOIA, 5 U.S.C., § 552(a)(4)(A), authorizes agencies to impose reasonable and uniform standard charges for document search and duplication, fixed to recover only the direct costs thereof, and continues to state:

Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

The implementing Department of Justice regulation, 20 C.F.R., § 16.9(a) (1981), provides that a determination that a fee waiver is in the public interest "shall ordinarily not be made unless the service to be performed will be of benefit primarily to the public as opposed to the requester, or unless the requester is an indigent individual." Blakey disclaims indigency.

In its original denial of Blakey's fee waiver request, the FBI determined that "interests of the general public appear more likely to be served by the preservation of public funds." The Office of Privacy and Information Appeals reached the same conclusion, observing that the Kennedy assassination file had been made available to the public in the FBI reading room in Washington. (Although Blakey travels to Washington frequently, he resides in Indiana). Copies of the file have been requested and paid for in full by four news organizations, one university, and a microfilming firm (which Blakey says he cannot locate). The Department of Justice has consistently denied fee waivers for the Kennedy materials since the records were initially processed for release under FOIA, and they have been furnished without charge on only one occasion and that pursuant to court order.

Plaintiff contends he is uniquely situated to benefit the public in the uses he intends to make of these documents. He states that he expects to make recommendations to the FBI and Department of Justice for further investigation of Kennedy's

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death, to teach a course at his law school on the subject, and to write "one or more publications." When his review is complete he anticipates donating the materials to Notre Dame's library.

As a general rule an agency has broad discretion concerning fee waivers, and its decision should not be overturned unless it is arbitrary, capricious or not otherwise in accordance with law. Eudey v. CIA, 478 F.Supp. 1175 (D.D.C. 1979); Lybarger v. Cardwell, 572 F.2d 764, 766 (1st Cir. 1978); Burke v. U.S. Department of Justice, 559 F.2d 1182 (10th Cir. 1977). Relying on Fitzgibbon v. CIA, No. 76-700 (D.D.C. January 10, 1977), however, plaintiff contends that the FBI must ignore the substantial cost incurred in providing him with a copy of the Kennedy materials in light of the public's inordinate and continuing interest in the assassination. But Fitzgibbon involved a request for a waiver of search fees in advance, and in a relatively modest amount, for information not yet in the public domain, not the considerably greater reproduction cost for the single copy of documents already located, assembled, and published which is involved here. ²

The Court finds that the FBI could (and did) rationally decide that the conservation of public funds better served the public interests than providing Blakey with his own personal copy of the Kennedy material. Granting his fee waiver would result in unequal treatment of requests for the same material from requesters at least as likely to benefit the public as Blakey, for several national news organizations, whose primary business it is to disseminate information (and who are, thus, more likely to reach the public with it than plaintiff), and another educational institution have already paid the full charge for it

² Fitzgibbon held that the agency's "perceived obligation" to collect fees for processing requests was irrelevant. In the instant case, the record indicates the agency's decision was not the result of a self-perceived duty but of balancing the relevant public interests. Plaintiff also relies on Allen v. FBI, No. 81-1206, (D.D.C. March 19, 1982) and Weisberg v. Bell, No. 77-2155 (D.D.C. January 16, 1978). Neither case is applicable here. The former involved records not available to the general public anywhere and the latter was expressly limited by the judge who ordered document production to the specific facts of that case.

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apparently without objection. While plaintiff's credentials are impressive, there are undoubtedly many other potential document seekers throughout the country whose special abilities might provide unique illumination of any of the myriad subjects on which government agencies keep records. To hold that such abilities and worthy intentions alone require agencies to reproduce any and all records for free upon request would result in a precedent likely to result in a drain upon agency appropriations that Congress never intended or the taxpayers expected to underwrite.

II. Cisneros Records

In April, 1980, plaintiff requested all agency records concerning one Rogelio Cisneros. ³ The FBI initially spurned the request altogether because plaintiff had not obtained Cisneros' written authorization, but several months later the request was processed and Blakey ultimately received all documents concerning Cisneros contained in files having to do with the Kennedy assassination. The FBI refuses to confirm or deny its possession of any other records relating to Cisneros which might be found elsewhere, i.e., indexed under topics other than the Kennedy assassination, claiming it has balanced the public's right to know against Cisneros' right to privacy and has determined the documents, if they exist, are exempt under 5 U.S.C., § 552(b)(7)(C), which permits the withholding of "investigatory records compiled for law enforcement purposes...to the extent that the production of such records would...constitute an unwarranted invasion of personal privacy." ⁴

³ Plaintiff asserts that Cisneros was a member of JURE, an anti-Castro Cuban group and a participant in the "Odio incident," i.e., a visit to one Sylvia Odio, a Cuban emigree, with Lee Oswald and another man shortly before the assassination. Some Kennedy investigators speculate that those three people conspired for Kennedy's death in retaliation for the Bay of Pigs invasion.

⁴ Plaintiff has not sought a Vaughn index for such documents nor does he contend that records may exist which were not compiled for law enforcement purposes.

To determine the applicability of Exemption 7(C) the Court must conduct the customary de novo review by striking its own balance between the privacy interest at stake and the public interest in disclosure. Baez v. United States Department of Justice, 647 F.2d 1328, 1338 (D.C. Cir. 1980); Lesar v. United States Dept. of Justice, 636 F.2d 472, 486 (D.C. Cir. 1980). Blakey claims that Cisneros is a public figure and that the persistence of the public's interest in the Kennedy assassination outweighs Cisneros' interest in what remains of his privacy. But if Cisneros is a public figure in a context other than the Kennedy assassination investigation, it does not appear from the record before the Court.⁵ The FBI says that it has provided all records having to do with Cisneros in the Kennedy assassination file and is willing to provide anything else it may have about him upon receipt of written authorization from Cisneros himself. Plaintiff acknowledges that he has not attempted to obtain such authorization because he doesn't know where to locate him. The FBI says, correctly, that the FOIA does not impose a burden on it to track down an individual about whom another has requested information merely to obtain the former's permission to comply with the request. In the circumstance of the parties' stalemate over authorization, the Court presumes that Cisneros might at least be embarrassed or "experience some discomfort" from a disclosure of the existence of information about him in an FBI file unrelated to the Kennedy assassination, and it can discern no identifiable public interest in him otherwise. Baez v. United States Department of Justice, 647 F.2d 1328, 1338-39 (D.C. Cir. 1980); see also Fund for Constitutional Government v. National Archives, 656 F.2d 856, 863 (D.C. Cir. 1981). Indulging that presumption, the Court finds the FBI to have carried its burden with respect to the Exemption 7(C) claim for other Cisneros records.

⁵ At oral argument plaintiff's counsel suggested Cisneros may have some unspecified connection with "organized crime" but conceded that such notoriety as he may have derives from his mention in connection with the Kennedy assassination.

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III. Adequacy of Search for Acoustical Records

In October, 1980, plaintiff requested copies of various documents having to do with an acoustical analysis of a sound recording of events contemporaneous with the Kennedy assassination conducted for the House Select Committee on Assassinations. He was provided with a copy of the FBI's own report on the subject in December, 1980.⁶ Plaintiff then requested all documents prepared in connection with a January 31, 1981, meeting between representatives of the FBI and the National Academy of Sciences Committee on Acoustics ("NASCA"). On May 21, 1981, the FBI informed Blakey it had no such material.

The FBI's affidavits explain that, when responding to a FOIA request, the FBI searches for responsive documents in its general indices which it alphabetizes by subject matter and individual. Those indices contain entries identifying "main files" carrying the name of the subject of the request and "see references" which cross-refer to other files in which the subject is mentioned.⁷ According to its affidavits the FBI could not make an indices search for the acoustical material due to the absence of identifying data. A verbal inquiry of the National Academy of Sciences liaison in the Technical Services Division did not disclose the existence of any documents in addition to the one already furnished to plaintiff, but a memorandum concerning the NASCA meeting in early 1981 enabled two other documents to be located and released to plaintiff in February, 1982. The FBI conducted yet another search after plaintiff filed his opposition to defendants' motion for summary judgment in April, 1982. No additional records were retrieved, and the FBI says, simply, that it has nothing else on the subject, exempt or not, which it is able to find.

⁶ The FBI analyzed a tape recording made at the time of the assassination by the Dallas Police Department.

⁷ The names of the subject, suspect or victim in the case caption are automatically indexed. All other indexing decisions are made by the investigating and supervising agents. Only names and information considered pertinent and necessary for future retrieval are indexed.

To prevail on an FOIA motion for summary judgment on the ground that all extant information has been accounted for, the agency must show that each document has been produced, is unidentifiable or is exempt from FOIA's disclosure requirements. The agency's affidavits, which should be relatively detailed and non-conclusory, are to be accorded substantial weight if submitted in good faith. Goland v. CIA, 607 F.2d 339 (D.C. Cir. 1978), cert. denied., 445 U.S. 927 (1980). ⁸

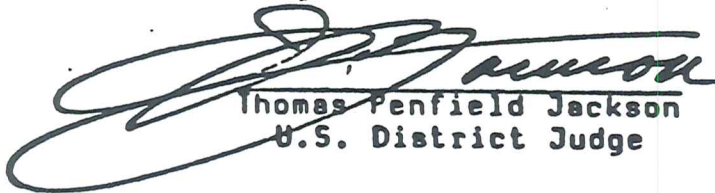
Plaintiff argues that an agency should not be permitted to frustrate the FOIA by hiding behind the limitations of its own filing system and that, at the least, defendant should have to inquire for documents at each of its division offices or wherever else common sense suggests they might be found. The issue, however, is not whether any further documents might conceivably exist, but, rather, whether the FBI's search for responsive documents was adequate. Id., 607 F.2d at 369. The FOIA was not intended to compel agencies to become ad hoc investigators for requesters whose requests are not compatible with their own information retrieval systems. A requester "must take the agency records as he finds them." Yeager v. Drug Enforcement Administration, 678 F.2d 315, at 323 (D.C. Cir. 1982); Goland, supra, 607 F.2d at 353; Marks v. United States Department of Justice, 578 F.2d 261, 263 (9th Cir. 1978). The FBI has conducted not one, but two, searches to comply with plaintiff's request. It has released those documents responsive to the request which its index search discovered and otherwise came to its attention. And it has offered to pursue any specific lead plaintiff can furnish to the whereabouts of any other documents. The Court finds this level of agency effort sufficient to constitute an adequate search in response to plaintiff's request.

⁸ Plaintiff has alleged the FBI's search was in bad faith because it initially denied controlling any documents responsive to his request and later released two documents. Any such inference, however, is expressly prohibited by Ground Saucer Watch, Inc. v. CIA, No. 80-1705 (D.C. Cir. August 17, 1981).

For the foregoing reasons, it is, this 14th day of
October, 1982,

ORDERED, that defendant's motion for summary judgment is
granted; and it is

FURTHER ORDERED, that plaintiff's cross-motion for summary
judgment is denied.



Thomas Penfield Jackson
U.S. District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

G. ROBERT BLAKEY,

Plaintiff,

v.

DEPARTMENT OF JUSTICE, et al.,

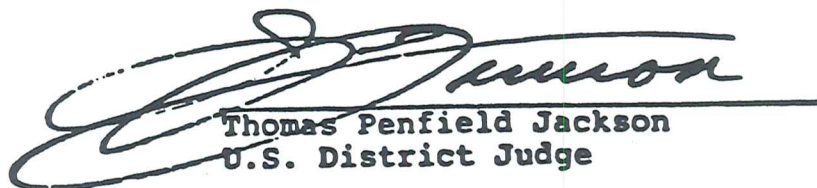
Defendants.

Civil Action No. 81-2174

JUDGMENT

For the reasons set forth in the Memorandum and Order of even date herewith, it is, this 14th day of October, 1982, .

ORDERED that judgment be, and it is hereby, entered for defendants, and the complaint is dismissed with prejudice.


Thomas Penfield Jackson
U.S. District Judge

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