U.S. Department of Justice

Office of Legal Policy

Office of Information and Privacy

Washington, D.C. 20530

AUG 6 1984

Mr. Harold Weisberg
Route 12, Old Receiver Road
Frederick, MD 21701

Re: Appeal No. 80-1019
RLH:TJM:PLH

Dear Mr. Weisberg:

You appealed from the refusal by the Executive Office for United States Attorneys (EOUSA) to waive the customary charges involved in your request for access to records pertaining to you and your wife and from that Office's action on certain documents relating to the assassination of President Kennedy referred to it by the Civil and Criminal Divisions.

With regard to your appeal of the fee waiver denial by the EOUSA, I have concluded that a waiver of fees in this case should not be granted. The statutory test for evaluating fee waiver requests is whether release of the information involved will redound to the primary benefit of the general public, in which event a waiver is required by law. 5 U.S.C. 552(a)(4)(A). I considered five factors in my determination as to whether sufficient public benefit would be derived from disclosure so as to warrant the granting of a fee waiver: (1) whether a genuine public interest exists in the subject matter of the request, (2) whether the documents in question will meaningfully contribute to the public development or understanding of that subject of public interest, (3) whether the information in question is already in the public domain, (4) whether the requester is able to disseminate the information to the public and (5) whether any personal interest of the requester which can reasonably be expected to be benefitted by disclosure outweighs any public benefit to be gained.

In reaching my conclusion on this aspect of your appeal, I have analyzed these five factors as they apply to the circumstances of your requests. I am unaware of any public interest existing in the subject matter of the records you have sought. Inasmuch as the subject of the requested records is you and your wife, it appears that the only people who will benefit to any discernible extent from the disclosure of the records in this case is you. Accordingly, because neither a complete nor a partial fee waiver is required, your appeal is denied.

With regard to your appeal of EOUSA's disclosure determination, discussions between personnel and of that component members of my staff have resulted in a supplemental release of eight pages, which are enclosed. For your convenience, the EOUSA is also releasing a complete set of the records as originally sent to you, which I have enclosed. After careful consideration of your appeal, I have decided to affirm the modified action in this case. Certain information was properly withheld from you pursuant to 5 U.S.C. 552(b)(7)(C) and (7)(D). These provisions pertain to investigatory records compiled for law enforcement purposes, the release of which would, respectively, constitute an unwarranted invasion of the personal privacy of third parties, in some instances by revealing an investigative interest in them on the part of the FBI, and disclose the identity of a confidential source. None of the information being withheld is appropriate for discretionary release.

For your information, eight pages of FBI records originally withheld in their entirety have been referred to the Bureau for direct response to you.

In response to your inquiry concerning records pertaining to you and your wife maintained by the District of Columbia and Baltimore United States Attorney's Offices, I wish to inform you that the Baltimore Office conducted a search for relevant records and the resulting documents are the subject of this appeal as it pertains to a fee waiver. Your original request letter, however, did not specify that you sought records from the District of Columbia Office and, accordingly, no search was ever conducted for responsive records. The Executive Office has agreed to treat your appeal letter as a new request for records pertaining to you and your wife maintained by the District of Columbia Office and will conduct a search of upon your agreement to pay any applicable fees. Please contact the United States Attorney's Office for the District of Columbia, U.S. Courthouse, Room 2800, 3rd Street and Constitutions, N.W., Washington, D.C., 20001 directly concerning this matter.

I also wish to advise you that the name of Tom Blake, an FBI attorney in the Legal Counsel Division, was originally withheld from you on pages 9 and 13 of the enclosed release. The EOUSA was unable to provide you with unexcised copies of those pages because if does not have copies of the original documents.

Finally, please note that the copies sent to you are the best available copies. The EOUSA did not retain clean copies of the original documents.

Judicial review of my action on this appeal is available to you and your wife in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, or in the District of Maryland, which is where the records pertaining to you and your wife are located.

Sincerely,

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

Enclosures