



OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

James H. Lesar, Esquire
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910 Sixteenth Street, N. W.
Washington, D. C. 20006

JAN 12 1978

Dear Mr. Lesar:

On November 19, 1977, on behalf of your client, Mr. Harold Weisberg, you wrote to former Deputy Attorney General Flaherty requesting a waiver of all fees that might be assessed as a result of your client's request for access to records of F.B.I. Headquarters pertaining to the assassination of President John F. Kennedy. That request was forwarded to Director Kelley for initial consideration and response to you. I have now been informed that Director Kelley has decided not to waive reproduction charges (as in the case of records pertaining to the assassination of Dr. Martin Luther King, Jr., no search fees were assessed), and that he has communicated his decision to you.

The release to the public of the second portion of the Bureau's files on the Kennedy assassination is scheduled to occur on Wednesday, January 18. I am aware of the legal action you have filed on behalf of Mr. Weisberg, seeking, inter alia, to enjoin that release, or, in the alternative, to obtain a complete fee waiver on his behalf. Although no formal appeal from Director Kelley's denial of the fee waiver request has been received by me, it is my judgment that the circumstances of this particular case are now such that both simple fairness and the interests of justice would be served by my independent consideration of the fee waiver request.

There are certain obvious parallels between Mr. Weisberg's efforts to obtain access to the Kennedy assassination records and those pertaining to the King assassination. In each case we are concerned with records pertaining to an event of great historical importance and substantial interest on the part of the general public. It is in recognition of this that Director Kelley did not assess search fees in either case and, on his own initiative, made arrangements for the released materials to be made available

at a number of different public locations, which I do not believe has been done with the King records. There are other similarities and distinctions between the two cases as well.

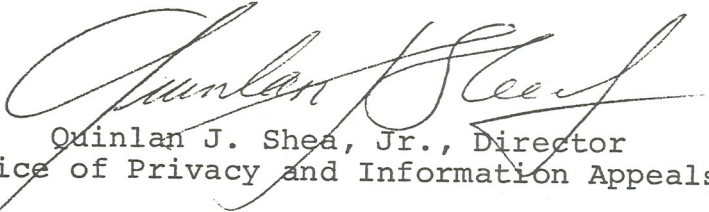
In acting on Mr. Weisberg's appeal from Director Kelley's refusal to grant any fee waiver as to the King records, I modified that decision and granted a partial waiver, in the amount of forty cents on the dollar. I was well aware of the fact that Mr. Weisberg has a commercial motive in seeking access to those records. In my view, this is ordinarily a more than sufficient reason to deny any fee waiver under the Freedom of Information Act. This statute is intended to ensure that the public is informed as to the workings of its Government, not that individuals can profit thereby. On the other hand, I felt that there was a sufficient counterbalancing public interest in that case to grant him the partial waiver. By examining your most recent complaint filed on behalf of Mr. Weisberg, I have become considerably more aware of just how blatantly commercial is the nature of what appears to be Mr. Weisberg's primary goal in seeking access to all of these records. By means of the content of the attachments to that complaint, however, as well as similar information from other sources, I am also somewhat more aware of the real, albeit limited, extent to which Mr. Weisberg does function in this area in support of the public interest.

On balance, I have concluded that the case for any fee waiver on behalf of Mr. Weisberg in the instant case is weaker than was true with the King records, but that the distinction does not warrant a difference in result. Accordingly, it is my decision that, to whatever extent Mr. Weisberg chooses to obtain copies of the Kennedy assassination records, he will be charged therefor at the rate of six cents per page, rather than ten cents.

Sincerely,

Benjamin R. Civiletti
Acting Deputy Attorney General

By:


Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals