



UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

FEB 9 4 28 PM '78

FREEDOM OF INFORMATION
PRIVACY UNIT
CRIMINAL DIVISION

Mr. and Mrs. Harold Weisberg
Route 12
Frederick, Maryland 21701

EB 8 1978

Dear Mr. and Mrs. Weisberg:

Each of you requested records pertaining to yourself. The Criminal Division advised Mrs. Weisberg that a search of its indexes did not reflect any records pertaining to her, other than those relating to her information request. The Division made essentially the same response to Mr. Weisberg, but did note that its indexes also show a request by attorney James Lesar on his behalf and a consultation by the National Archives. It does not appear, however, that these latter matters pertain to Mr. Weisberg personally.

After careful consideration of your appeals, I have decided to affirm the actions of the Criminal Division. The indexes of the Division contain no references to Mrs. Weisberg not related to her request for access to records about herself. With the same exception, the indexes similarly contain only those references to Mr. Weisberg set forth in the letter of April 15, 1977, from Assistant Attorney General Benjamin R. Civiletti. The Division offered three options for discovering any mention of either or both of you which, although unindexed, may possibly exist in its Hiss or Rosenberg records. First, it was suggested that you yourselves come to the Department to examine these records as they have been released, in their substantial entirety, to other requesters. Second, you were informed that you could purchase these same records at ten cents per page for your examination elsewhere. Lastly, you were advised that you could pay the fees estimated in Mr. Civiletti's letter of July 7, 1977, and that a search through these records would then be conducted by Criminal Division personnel. You have questioned the propriety of this third option, correctly noting that search fees may not be assessed under the Privacy Act. That Act, however, provides access only to a "system of records," defined as a group of records "from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual." 5 U.S.C. 552a(d)(1) and (a)(5). Nothing pertaining to either of you can be retrieved from the designated records through your names or any other personal identifiers. Accordingly, it is our belief

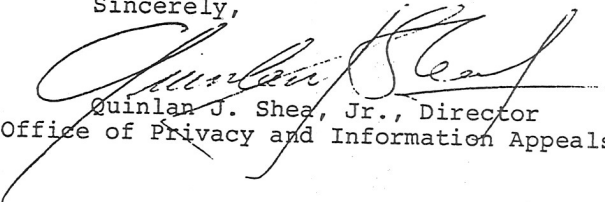
that any further effort to locate information about you that may be in these records is properly viewed as being carried out under the Freedom of Information Act and that search fees can lawfully be charged. In deciding whether to incur the expense involved in a line-by-line reading of these records by Criminal Division staff, you may wish to consider that members of the Division really do "recall no reference to you or your wife in those documents." If you would like me to do so, I will be happy to contact either Professor Allen Weinstein of Smith College, or some other individual who has seen the Criminal Division Hiss and Rosenberg records, in order to see if any references to you were noted. Just let me know if you would like me to do this for you. If you do want a line-by-line review, you may confer with Criminal Division personnel [(202) 739-3147] in an effort to reformulate your request to minimize search costs, otherwise properly estimated at \$368.00, with \$92.00 due as an advance deposit. Although 28 C.F.R. 16.9(c) provides that a request will not be deemed to have been received until the requester is notified of the anticipated cost and agrees to bear it, the Criminal Division has agreed to process your request in the order offered in its letter to you of July 7, 1977, once it has received your advance deposit.

You complain that this Department cashed a check it received from you and supplied you with nothing in return. If you will provide me with further particulars, I will attempt to resolve this matter. Alternatively, you could bring the matter to the attention of Counsel Michael Shaheen, Office of Professional Responsibility.

You charge that in the first paragraph of his letter of July 7 Mr. Buckley misrepresented what you had earlier written, stating that his words, "your statement that you were virtually a Department employee" constituted misrepresentation. A copy of your letter of June 8, 1977, is enclosed. On page two you stated ". . . not only was I virtually a Department employee, I rendered services that in some instances not even the FBI agents would perform." It seems to me that Mr. Buckley's reference was legitimate and unmotivated by malice. It is a fact that no Criminal Division record has been located which shows that you were ever paid by the Department. If you can provide any new information upon which a further search could be based, new efforts will be undertaken by Division personnel to locate the records which you seek. If you feel that a meeting on this point (or any other matter touched on in this letter) would be useful, I would be willing to schedule one, to which both you and Criminal Division personnel could come. Again, let me know if you would like me to do this for you.

Attorney General Griffin B. Bell specifically designated me to act on this appeal. Judicial review of my action is available to each of you in the United States District Court for the judicial district in which each of you resides or has a principal place of business, or in the District of Columbia, which is also where the records you seek, to the extent they may exist, would be located.

Sincerely,


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

Enclosure