

Rt. 12, Frederick, Md. 21701  
12/3/77

Mr. Allen H. McCreight, Chief  
FOIA/PA Branch, Records Management Division  
FBI  
Washington, D.C. 20535

Dear Mr. McCreight,

With your letter of 12/1 in today's mail there were the enclosures listed in it.

Unfortunately you have gone out of your way to require still further correspondence on this matter, meaning more costs for all concerned, you have not faithfully reported all that you refer to, and you have not explained what possible basis or need there was to have withheld from me what you have at long last provided. In these and in other way you have, as I see it, again exemplified all that is wrong with the FBI's attitude toward FOIA and PA and the considerable waste that results from it.

As you must be aware and as your associates are aware your first two paragraphs deal with what was discussed at several meetings that involved Departmental personnel and at several meetings with AUSA John Dugan and FBI agents. Neither item is new at this point. Neither item is represented by you as constituting full compliance. In fact in neither case is there full compliance nor any explanation for the continued withholdings.

Both matters go back a long way in C.A.75-1996. Of my requests there is a specific item relating to other suspects. A member of your staff has sworn falsely to the Court that there never was any other suspect. The enclosures with your letter include another of the many redundant proofs that this affirmation was both false and knowingly false. To date, despite my request that it be done, this false swearing has not been relieved.

You open with a correct statement that I was shown several photographs of Dr. King's body on November 18. At that meeting I selected two views of which I desire copies for non-publication. This particular meeting followed a larger meeting under the auspices of the DJ Civil Division. It also followed a similar meeting of a week earlier in the office of Bill Schaffer at which I raised the point that records I had recently obtained from GSA establish that the FBI and Director Kelley had withdrawn their objection to making the Lee Harvey Oswald autopsy photographs available. Mrs. Lynne Zusman participated in that part of that discussion. I then made two other points to which you have in no way responded. The first is that many more than these autopsy photographs of Dr. King have been made available to at least Gerold Frank. The second is a question of additional waiver by the FBI's and the Department's use of sketches depicting the wounds to Dr. King that are identical with those photographs of which I have requested copies. Not only did the Department use these latter records in court - once it had to deliver copies of them to me it decided to deny me the right to first use by offering them to as many of the major media as would accept them. Aside from what this did to me and to my rights and to the not inconsiderable costs of the litigation by means of which these records were made available this represents an official effort to attract attention to the King autopsy.

I am asking still again for a definitive response on these photographs. I repeat that my interest is limited to the ballistics-related photographs, one showing where the remnant of bullet came to rest, a photograph that does not show the face of the victim, and to the entry wound(s). There are two forms of the second view, one prior to surgery and one following it. There is no disputing of my statement that with this second view there was a special showing at a public symposium at the University of Arizona and that it is available on videotape which my counsel in this case bought. There likewise is no disputing my statement that the photographs withheld from me were displayed widely throughout the state of Tennessee, to all who would look at them, ranging from four sessions of the bar in a single year to such lay groups as the convention of the truckers.

Your second paragraph is a bit too Orwellian for this stage in the case and after all I have written about it without response. It amounts to an obfuscation, an evasion. It is a meaningless description that manages to create a misleading if not a deceptive representation. It refers to no more than five records "which pertain to photographs and an artist's sketch of alleged suspects (sic) in this case.

While it is true that a photograph of part of a photograph of a series of photographs and a single sketch are involved, what you have eliminated is that these records relate to what I provided to the Bureau.

This has been the subject of what amounts to FBI harassment of me, <sup>to</sup> needless arguments started by FOIA agents in an effort to continue non-compliance, and of an effort that make it appear that I have not been accurate in what I have informed the FBI in an effort to obtain compliance with this part of a specific item of my requests that I believe goes back to 1969. Certainly it now is two years old if my recollection is not correct.

Now I don't know why the FBI had to argue about this. At the very least my basic representations are to the FBI's knowledge and from the FBI's files correct. With these newest records I believe it is fair to state that all of my representations with respect to this picture and this sketch are precisely accurate. Yet instead of complying I was argued with until Mrs. Zusman asked the FBI's representatives why they could not make a phone call and obtain compliance rather than waste all the time wasted in non-compliance.

My belief is that the FBI is deliberately wasting my time to interfere with my work. To establish whether or not this is correct and whether or not it amounts to a deliberate violation of FOIA I ask that there be a comparison between what I wrote the FBI about this during the course of this litigation and the records to now provided. I represented that I phoned the resident agent at the Baltimore office because he was not in Frederick, as I learned in attempting to phone him at his local number. I represented that I made an arrangement with him to make a set of pictures available to him through the editor of the local afternoon paper whose office is directly across the street from the post office, that I did this by phone, and that the local RA did in fact pick these prints up pursuant to that arrangement. All of this and more was disputed when I see no reason for all this that is irrelevant to compliance. Even that the prints were to have been returned is explicit, as is my conversation with SA Lichtinger.

My representations about the original photographs likewise are completely authenticated. So also is my allegation that there are relevant records in other field offices that have not been provided. These records refer to some but not all of those I have specified to your agents.

That these records are relevant in this case would seem to have been known to FBI people who stamped one "DO NOT DESTROY - PENDING LITIGATION." Why there should have been any thought to any such destruction when I have an uncomplained with RA request now more than two years old is something I believe ought to be explained.

Compared with this creation of unfaithful records you people practise ignoring communications relating to compliance. This has recently resulted in my having to assume the burden of proof clearly imposed upon the government by FOIA. I believe this newest abuse of me would not have happened if the FBI had not just ignored what I wrote it about its non-compliance. For months you ignored what I kept writing in detail about this item and now you provide what appears not to qualify for any withholding. In addition, these records and the related one from Legat, Mexico (173-1)(P) refer to other files not searched and other records still not provided. Will you now please let me know promptly whether or not you are searching other known sources to comply with this item? I mean those I have specified in the past and those now disclosed to hold records.

While I cannot and do not allege that there is a perfect dovetailing between this case and my PA request with which the FBI is in extensive non-compliance, these records being merely the most recent example of it and its deliberateness, I do believe and I have stated that compliance with my PA request is necessary from the FBI's stonewalling for me to be able to obtain reluctant compliance in this case. One of the questions is the FBI's truthfulness about its indexes. I have been told there are none in the King case. Yet here, 44-669-261 it is clearly indicated on the proper stamp which has been added that this record relating to both me and the King assassination investigation was indexed in the Baltimore Field Office. No file other than the 44 file is indicated for any other copy. It would appear to be obvious that any good-faith search with due diligence had to turn<sup>up</sup> these records and their leads to other records/~~xxx~~ This relates to both requests, PA and FOIA. Yet based on the FBI's representations and its affidavit, which he says he has in hand, AUSA Dugan had already assured the Court of total and complete compliance in this case. Not for the first time and not inaccurately for the first time.

Of course all the time I have to take in an effort to drive you wild elephants out of the jungle is time I do not have for other work, work the FBI does not like. And if I do not take the time then you do not come out of that jungle.

None of these records bears the designation of a file associated with the JFK assassination. My purpose in offering these prints to the FBI is explicit in Mr. Lichtinger's 4/29/68 memo, "it allegedly represents a composite sketch of the assassin of Dr. KING." No record has been provided indicating any request or directive for the correct investigation, relating to the existence of a contrived sketch that would tend to link the two assassinations without any reason. None relating to the assassination of Dr. King. Baltimore's request of Dallas related to the JFK assassination only.

SA Bardwell Odum, who is not without prior experience with wrong pictures in these assassinations, promptly conducted an investigation in which he interviewed the wrong people. His name might not have been known to those without his knowledge of the JFK assassination, of which he was part. The publisher of the newspaper is not the one who has the lefts-to-rights, if anyone did in this case. He is not the one who would have sought out the names then or later, if anyone did. The publishers obligations lie elsewhere, as even the Dallas FBI knew. So also with the Sheriff, Bill Decker. It is not likely that any Dallas FBI agent was unaware of the fact that the one in charge of the sheriff's investigation and the one in charge of all the photographs then was the late Alan Sweatt, chief criminal deputy. (The FBI extended itself never to provide an interview with him for all its some 25,000 interviews reported to the Warren Commission alone.) Mr. Sweatt did, however, provide the Commission with the name of the deputy who took the men in those photographs to police headquarters. The Commission published this and the FBI has displayed intimate knowledge of what the Commission published. Except when it appears expedient, as in this case, to feign ignorance.

However, I do not see how a belated identification of any of these men could explain either the faking of a sketch on the alleged King assassin by a police agency or the absence of an investigation (from what has been provided) of Claude Chester McLaren in connection with either assassination despite these look-alike links to both.

The FBI can always claim, of course, that with perhaps 300,000 pages of records or more relating to both assassinations it failed to conduct either investigation. Absent such a claim it appears apparent to me that the FBI knows its business, did its job and just withholds the relevant records.

The FBI did issue a statement with regard to this sketch. That statement remains withheld from me in this case even though I have notified your agents that it is withheld. On continued withholding these records identify some of the field offices I have told your agent have relevant records still not provided. As Mrs. Zuzman asked three weeks ago, cannot your agents use your phone, the WATS like costing nothing to use?

It might have been helpful to others, ranging from Department counsel to the Court, if the origin of the other records included had been indicated. It would not have required either time or effort of your staff to say that 44-1987-Sub N-572, for example, came from the ~~Memphis Field Office~~ Memphis Field Office or that 44-1574-1403 came from Los Angeles. With regard to the latter I ask an explanation of why this was not provided earlier with the excisions that now appear in it. The material you want withheld is readily, not only reasonably segregable. (I do not disagree with this proper concern for privacy even if it does not under identical circumstances extend to blacks or to women.)

I do raise a question about your failure to even allege that you cannot segregate from the Memphis file records. I believe that absent this claim you are withholding improperly.

You are aware that I have been ordered to do your work for you in this matter, based on your false representations to Judge Green. I did not refuse to go over my notes and provide those illustrations of withholdings of which I made notes not for completeness, which is totally impossible for any applicant, but as illustrations of violation of the Act and its exemptions. I did say, including to your associates and in writing, that I wanted what I do not have, a sign that what I do will not again be totally ignored by the FBI. I did write the Department about this. My point here is not that in this liasing step you have validated my position, that you can do what you have steadfastly refused to do from the time the very first record was provided in this case, now almost two years in the past. I have been sufficiently specific in what I have told the Bureau. My point is that I now have no choice - I have to go over what I have written to the FBI and provide it to the Department. This means that as with the foregoing I will be providing specifics of non-compliance and proof of the existence of records not provided or quite substantial reason to believe that withheld records have to exist. Those relating to the prints above are illustrative of the accuracy of my belief.

What I intend is to again ask that instead of stonewalling and misrepresenting to abuse the court and me further and deceiving your own counsel you do what you clearly can do with regard to what I have provided in writing. There is no point in claiming it is incomprehensible, the false representation to the judge, because you have not once asked me to explain what is misrepresented as incomprehensible. You likewise have ignored specific citations of serials in which there is improper withholding. You can comply or refuse to comply with what I have taken so much time to write you about. You can do this in time to save me much work that I ought not have been asked to do in the first place at least until you had done all that it was possible for you to do. I am not a lawyer so I cannot be positive but I do believe that once I wrote good faith and due diligence required of you other than that you first ignore what I wrote you about non-compliance and then other than that you misrepresent this to the judge and your own counsel.

I do assure you that when I get to that point in the work I've been directed to do I will be as diligent as I can be. If the need has not been eliminated by then.

Sincerely,

Harold Weisberg

My apologies for the typing and the haste. People like you and yours leave me no real choice. I will not ignore these matters and become the victim of ignoring them. You should have learned this by now. But I invite you to ask if anything is not comprehensible.