DEPARTMENT OF STATE

Washington, D.C. 20520

December 10, 1969

Mr. Bernard Fensterwald, Jr.
Fensterwald, Bevan and Ohlhausen
927 Fifteenth Street, N.W.
Washington, D. C. 20005

Dear Mr. Fensterwald:

I have been asked to reply to your letter to the Secretary of State, dated November 26, 1969, requesting certain documents in connection with the extradition of Mr. James Earl Ray.

Affidavits submitted to a foreign court in support of a request for extradition become part of the records of that court. Mr. Ray himself, however, made a similar request some time ago, and the Department was able to have the affidavits returned to the United States by British authorities. Since the affidavits were originated by the Department of Justice, we asked that Department's views on their release to Mr. Ray. The Deputy Attorney General advised us that the affidavits were considered to be investigative files of his Department and exempt from disclosure under subsection (e)(7) of section 552 of Title 5 of the United States Code. In view of this advice, the Department of State returned the affidavits to the originating agency and so informed Mr. Ray.

Since the Department of State no longer has custody of the affidavits you have requested, we are unable to comply with that request. I regret that we cannot be of assistance in this matter.

Sincerely yours,

J. Edward Lyerly
Deputy Legal Adviser