

Congressman Don Edwards  
House of Representatives  
Washington, D.C.

7627 Old Receiver Road  
Route 12  
6/23/79

Dear Congressman Edwards,

Enclosed is what I believe is a self-explanatory appeal from an FBI withholding in my C.A. 75-1996 together with copies of the records on which it is based.

I have some reservations of the campaign to weaken the Act and have followed it with more than usual interest because I was misused beginning in 1970 in the earlier and successful <sup>effort</sup> to procure the same effect by misrepresentations to courts.

You may remember that as Judge Gosnell said in my C.A. 77-2155 I have some responsibility for the 1974 amending of the investigatory files exemption.

I filed the first suit anywhere under the amended Act. The record in it is incredible, including repeated false swearings. It is C.A. 75-226. The information remains withheld yet there is no first-person affidavit attesting that it does not exist. In its earlier form, C.A. 2301-70, it went to the appeals court twice and then to the Supreme Court. It is now before the appeals court for the second time since the Act was amended.

C.A. 75-1996, to which I refer in the enclosed, is for records relating to the investigation of Dr. King. My first requests, in 1969, were ignored. In that case the FBI held, in records I have since obtained, that because it does not like me there is a legal basis for not responding to my information request.

When I recalled those requests under the amended Act there were initial searches that disclosed the obvious, the existence of relevant records. It was then decided not to comply with my request despite the disclosure of relevant records in those searches. As a Department lawyer ~~put~~ it after a conference with the FBI, first turn him down and then heat up some kind of legal justification. This was after the amending of the Act. This is precisely what both the FBI and Department did even after I filed suit.

Where I refer to deliberate violation of the Court's <sup>order</sup>, please take it literally. It is worse. When I was able to force this to an issue before an excessively tolerant judge the FBI provided an affidavit saying no matter for it was done in only the first two-thirds of a mere 20,000 pages of historical records, the determination of the Attorney General. To find someone brazen enough to do this the FBI used an unindicted cop-conspirator in the Pat <sup>Ray</sup> case, a very vulnerable man. When I showed this to the Court along with proof of false swearing, again to be taken literally, the Department's response was not belated compliance or an apology. It moved to expunge without even claiming any factual error in what I presented to that Court. To this day, after more than three years, that information remains withheld.

In that case, as part of a systematic campaign of stonewalling, the Civil Divi-

sion persuaded the judge to have me act as the Department's consultant in my case against the Department on the ~~max~~ representation that I could do for it what nobody in the Department or the FBI could do. It also assured "generous" payment for my time. Simultaneously it refused to confirm this in writing and not until much later, late on a Sunday before it feared being slothful the next day over this before Judge DeLoe in my C.A. 77-2195, did it offer an acceptable rate of payment. Once it got by that hurdle it backed out and to this day has refused to repay even my out-of-pocket expense in this consultancy. Of course I have not been paid for the time required to prepare and have retyped a consultancy memo. The latest is for the judge to hold that payment for the work I was ordered into doing and did in good faith will not be paid for until the end of the litigation now almost four years old. This is an effort to coerce the wrong party. There is only one way I can speed up this case, by accepting wide-scale and undenied non-compliance.

Within my experience in many cases filed after the enactment of the Act the various new devices to frustrate the Act and the clear intent of the Congress extends to the current withholding of what was not withheld prior to the enactment of the 1966 Act. Again I mean this literally, as generic and as the withholding of information that was disclosed in the Warren Commission's records.

In some respects the record of the CIA is even worse.

In going on four years I have filed so many appeals in the Kennedy and King cases, usually with copies of FBI and Department records attached, they take up about two file drawers. Almost all remain totally ignored.

This volume, of course, almost defied examination. However, all these and any and all other records you might consider relevant are available to you or your subcommittee.

Within my experience the official campaign has been to waste enormous amounts of time and money to negate the act and simultaneously have false statistics with which to make special pleadings to the Congress.

In the attached I refer to Oliver Anderson. What he told me and I used in an affidavit to which there is not even pro forma denial is that his case agent had him alter factual reports to make them unfactual. This is one of the real reasons, I believe, for the refusal to disclose ~~any~~ information ~~in~~ notifications to you - to prevent your proving this is an FBI practice.

There are FBI records I have in which a determination to "stop" me and my writing is stated explicitly, using this word. They even conspired in a scheme to file a spurious law suit to "stop" me by wasting me, what they have been able to do in my FOIA cases. Because of my age and the state of my health this has been easier for them.

These factors have led me not to try to take time to inform the Congress because I can no longer drive to Washington and because the Madier people gave an encapsulation to the Senate subcommittee some years ago.

I never heard from it until it was preparing a footnote for the hearing at which the Civil Division made false and unkept promises to it. It then placed me to ask if those promises had been kept, I said they had not been and I have heard nothing from that subcommittee since.

Several years ago Tim Ingram told me he had recommended that the GAO go over my records. When I heard nothing I sent a written invitation. I have not had even acknowledgement of its receipt.

I am not a lawyer so I cannot make positive statements about perjury. I can make factual statements about false swearing and I cannot think of a single one of my many FOIA cases not tainted by it -- or any in which any judge made a peep after I proved it. As best a layman can have an opinion I believe there has been perjury, by the FBI, the CIA and the Department of Justice. Yes, the Archives too.

The fact seems to be that judges resent having to face proof of false official swearing.

Can any Act survive this?

Sincerely,

Harold Weisberg

My  
My apologies for my typing. There is a limit to the help my wife, who is of my age, can provide.

7627 Old Receiver Road  
Frederick, MD 21701  
August 23, 1979

Quinlan J. Shea, Jr.  
Director, FOIA/PA Appeals  
Department of Justice  
Washington, DC 20530

Re: King Assassination records appeal  
Flanders letter of 8/21/79 to me and its attachment  
spurious "national security" claims and their consequences

Dear Mr. Shea:

The inexact Flanders letter, which with its enclosure is attached, states that "one document from the MURKIN files has been partly declassified" by the Department's Review Committee. Because I did not trust this formulation and because it has been so very long since I requested a review of all the many classification claims, I checked the original records provided in C.A. 75-1996. I find that the entire document was not withheld. Rather were there what it is now apparent are totally spurious claims to "national security."

I also attach the first page of the record as originally disclosed. The only declassification is on this page. All but the first sentence was originally withheld.

Although ostensibly both versions are made from the same record in 44-38861, in fact they are not identical.

As provided to me in early 1977, there was no classification stamp or other classification indication. The worksheet makes only a (b)(1) claim, for the entire record. This is to say that the "national security" claim was made for an unclassified record, one not generated until 1976. At the time this record was created, the FBI was well past the point where it could assert its stock claim, that before FOIA it did not classify records because nobody ever saw them.

The record as just provided is classified both CONFIDENTIAL and SECRET without any compliance with the E.O. Neither declassification to Confidential nor upgrading to Secret, whichever it may have been, is in compliance with the E.O.

The "Indefinite" claimed exemption from downgrading is undated if one goes by the right-hand stamp and of 10/26/78 if one goes by the same stamp on the left side. While information remains withheld, both classification stamps are excised, leaving no classification but a persisting (b)(1) claim.

These are not the only indications that the FBI has used different copies of the same record, both from the same MURKIN file.

If the date on the right side handwritten notation that is on the new copy only is 1971, it is prior to the time the original record was provided to me. If the unclear date is 1976, it is of about the time the record was provided.

None of the notations on the bottom of the new version are on the original one.

That both versions began with a copy that is identical is apparent from examination of other added matter that is on both versions.

If the right-hand notation is "DRC" and if that signifies "Department Review Committee," then the offense is even greater because it means that the Review Committee approved the withholding under "national security" claim of what has no relationship with the "national security" and clearly does not fall within any other exemption of the Act. This has to have been more than three years ago, not now, because the date cannot be 1979.

It is only on examining what is withheld under this phony "national security" claim that the full magnitude of what was perpetrated becomes apparent.

To understand this, more fully, I refer you to Item 17 of my amended request. It reads:

All notes, memoranda, correspondence or investigative reports constituting or pertaining to any re-investigation or attempted re-investigation of the assassination of Dr. King undertaken in 1969 or any time thereafter, and all documents setting forth the reasons or guidelines for any such re-investigation.

The withheld content relates to these reinvestigations, not "national security." More, in the very first sentence of what was originally withheld, the Office of Professional Responsibility reinvestigation is described as "a continuation of the 'partial review' recently completed by the Civil Rights Division of the Department under the direction of Assistant Attorney General J. Stanley Pottinger." (emphasis added)

At a time when I was ill and not able to be in court, the Department represented that the OPR reinvestigation was not included within my request. The Department prevailed in this representation. This required still another suit, C.A. 77-0692. Because of the state of my health, my counsel filed it in his name.

It is apparent that the Department does not dispute that the CRD reinvestigation is within what the Department recognizes as my request because there has been partial compliance with regard to CRD reinvestigation records.

Thus there is motive for the unjustifiable claim to "national security" and the apparent Review Committee rubber-stamping of it: to hide the fraud on the court and on me in the misrepresentations made to mislead the court into ruling that the OPR reinvestigation is not within my request.

This is the FBI's own statement in what was withheld, that the OPR's work is but "a continuation" of what the Department and the FBI admit is within my request, the CRD's reinvestigation.

Because of the fact that the two investigations were really one, the FBI states in what was originally withheld that it required no new directives to make records available to the OPR.

This also, obviously, is not a "national security" matter, either "CONFIDENTIAL" or "SECRET," and whether or not approved by the classification review committee.

the or secret) containing (b)(1) claims follows. With regard to these I raise a question I have asked countless times without response: is the FBI making (b)(1) claims for what is within the public domain? On a number of occasions,

also without response, I have provided proof that in fact the FBI does make "national security" claim for what is within the public domain. Not one of these appeals has been acted upon and they go back to 1976.

The previously withheld information also states what is other than I was informed in C.A. 75-1996, that there are "informants who were not afforded symbol numbers."

It is, I believe, clear that the real reasons for the foregoing withholdings from the record as originally provided were for the sole purpose of effectuating fraudulent misrepresentation to the court and defrauding me. The claim to exemptions is spurious and no other purpose was served by it.

It should also be apparent that another result, aside from continuing noncompliance, is the wasted cost to all parties of the additional litigation required, which was before a judge who lacked any personal knowledge of or background in what was established in C.A. 75-1996.

What this just released information does not state is also within the public domain - that the CRD reinvestigation itself was a continuation of earlier ones. This was published in a New York Times series of about January 1, 1976.

As I have previously informed you in earlier appeals that remain without action, John Crowdon, who by-lined those articles, was in touch with me ~~while~~ he researched them and from this I know he was provided with information by both the Department and the FBI. Yet none of the information provided to the Times then or on a number of earlier occasions has been provided in response to Item 7 of my request or other items. The apparent contrivance is that these records were not duplicated in MURKIN filing. There is the continuing, steadfast refusal to search any other files even though most of the items of the request clearly are not suitable for MURKIN filing. I have even specified where searches should have been made and I provided file numbers, yet as recently as the second day of the Wiseman deposition of last month Department counsel and the FBI were steadfast in this refusal, in the face of proof of the relevance of the HQ 94 file.

With regard to this and all the great cost resulting from it, the Department and the FBI represented to the court that there would and could be full compliance from MURKIN records only. The FBI knew this representation to be false. To anyone in the Department who read the request, beginning in 1975, this had to be obvious.

In addition, there is the continuing noncompliance with most items that results.

As I have informed you on a number of occasions and in various earlier appeals, what was withheld in the MURKIN processing was not withheld when other FBI personnel processed the OPR records in C.A. 77-0692. As recently as in an appeal I wrote only yesterday, I attached copies of the same records as processed in both cases. Among other violations these show the deliberate violation of a court order in C.A. 75-1996. In C.A. 75-1996 the FBI withheld and on appeal you have not replaced information that was not withheld from the records provided in C.A. 77-0692.

The originally withheld information about informers and the FBI's means of identifying and not identifying them in its records appears to me to have added point when considered with this morning's news story reporting what Director Webster has informed the Edwards subcommittee.

I doubt that Director Webster's report includes what is in many of my appeals, the FBI's systematic disclosure to the recent House Select Committee on Assassinations of the actual identifications of its informers. In each of a number of cases, more than I have called to your attention, the informer was known to have provided only bad information, which would mislead the committee, or the most prejudicial kind of information, which could be expected to and which in fact did have the same effect. (There are several instances of the disclosure of the names of Mafia informants.)

In this connection, there are the appeals on which you have not acted relating to St. Louis informants. Richard Geppert is one of those who were disclosed to the committee. Thereafter, in an effort to justify himself, he appeared on TV. At the request of Department counsel, I provided my tape recording of this. I am informed that Department counsel provided it to you. Also in this connection you have not acted on my last year's appeals relating to Oliver Patterson, or my subsequent providing of the Susan Wadsworth privacy waiver, or the Byers matter appeal.

All are relevant and all are or are involved with informants. All these FBI games in disclosing the identifications of its informers resulted in major misleadings of the committee.

I also note that this long-delayed partial disclosure of two days ago was delayed until after the appeals brief was filed in what was C.A. 75-0692.

I regard all of the foregoing as quite serious and as an appeal requiring prompt attention. If as I believe the withholdings involve fraudulent misrepresentations, then in addition to the denial of my rights and those of the public through me, at least one court was victimized.

Sincerely,

  
Harold Weisberg



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 21, 1979

Mr. Harold Weisberg  
7627 Old Receiver Road  
Frederick, Maryland 21701

Dear Mr. Weisberg:

Pursuant to a recent decision by the Department Review Committee, one document from the Murkin files has been partially declassified.

A copy of this document, reflecting the current classification, is attached hereto. For your assistance, this document is located in the main Murkin file, 44-38861, section 87 between recorded serials 6121 and 6122.

Sincerely yours,

*David G. Flanders*  
David G. Flanders, Chief  
Freedom of Information-  
Privacy Acts Branch  
Records Management Division

Enclosure



~~CONFIDENTIAL~~

- 1 - Mr. J. B. Adams
- 1 - Mr. R. J. Gallagher (Attn: J. S. Peelman)

5/21/76

Mr. T. W. Leavitt

~~SECRET~~

J. G. Deegan

- 1 - Records Management Division
- 1 - Legal Counsel Division
- 1 - Mr. T. W. Leavitt
- 1 - Mr. J. O. Ingram
- 1 - Mr. J. G. Deegan
- 1 - Mr. J. T. Aldhizer

MARTIN LUTHER KING, JR.

CLASSIFIED  
 EXCEPT WHERE SHOWN  
 OTHERWISE.

**PURPOSE:** To advise the degree of access to our files given the Department Task Force of the Office of Professional Responsibility (OPR) which is assigned to review our past investigations relating to Martin Luther King, Jr.

**SYNOPSIS:** Correspondence from the Department indicates that the current review of our King investigations by the OPR Task Force is a continuation of the "partial review" recently concluded by the Civil Rights Division of the Department under the direction of Assistant Attorney General J. Stanley Pottinger. Therefore, in absence of any information to the contrary received from the Department to date, personnel conducting the OPR review will have the same access to our files that was afforded the Pottinger review group. Under instructions from the Attorney General the Pottinger group was allowed to review raw files pertaining to King, his family, relatives, friends, associates and the Southern Christian Leadership Conference (SCLC) as well as files relating to COINTELPRO actions, electronic surveillance, all intelligence files and our complete file on investigation of the assassination of King.

[REDACTED]

Informant files will not be made available for review. It should be noted that current review by the OPR Task Force will include cover pages of communications containing identities of some Bureau confidential sources and informants who were not afforded symbol numbers at that time and individuals who expressed or implied confidentiality. This review commenced 5/10/76 in Room 4171 of the JHL Building with review of our files pertaining to King's assassination.

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JIA:adn/s.b. (10)

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 DATE OF DECLASSIFICATION  
 (b)(1)  
 OPR PER  
 5/24/76  
 OPR

Memorandum to Mr. T. W. Leavitt  
Re: Martin Luther King, Jr.

RECOMMENDATION: For information. (U)

DETAILS: The Attorney General has instructed the Office of Professional Responsibility (OPR) of the Department to conduct a review of our past investigations relating to Martin Luther King, Jr. By letter dated 5/10/76, Michael E. Shaheen, Counsel of the OPR, defined the areas of concern in the review which will include perusal of all King related records in the Department, at FBIHQ and in Bureau field offices. The review must be completed "forthwith" and is to answer the following four questions: (1) Was the FBI's investigation of King's assassination thorough and honest? (2) Is there any evidence the FBI was involved in the assassination? (3) Is there any new evidence which has come to the attention of the Department concerning the assassination? (4) Does the relationship between the Bureau and King call for criminal prosecutions, disciplinary proceedings or other appropriate action? (U)

Memorandum to Mr. T. W. Leavitt  
Re: Martin Luther King, Jr.

DETAILS CONTINUED:

Attached to the above mentioned letter was a copy of a letter to Shaheen from the Attorney General dated 4/26/76, outlining the previous review of the King matter by the Civil Rights Division and the basis on which the Attorney General decided to order a more complete review. In this letter the Attorney General indicated that the OPR review is a continuation of the "partial review" completed by the Civil Rights Division under direction of Assistant Attorney General J. Stanley Pottinger. (u)

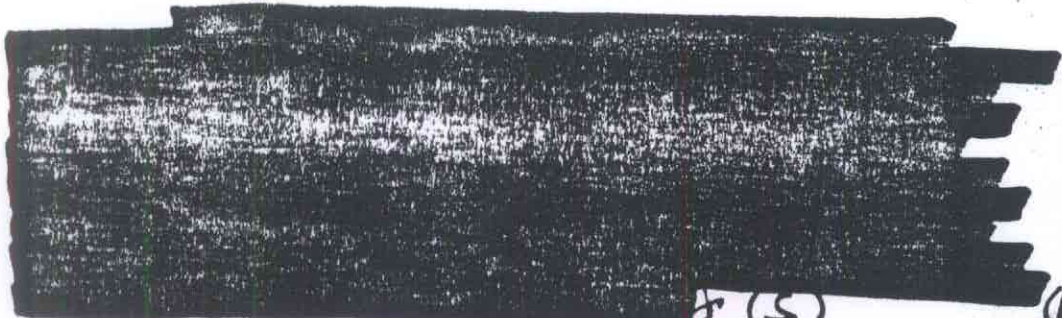
Since correspondence to date from the OPR has not dealt specifically with file access by the OPR Task Force, it is concluded that personnel conducting the OPR review will have the same access to our files that was authorized at the outset of the Pottinger review. (u)

The material/files desired by the Civil Rights Division in its review were set forth in a letter from Pottinger to the Director dated 12/4/75. In this letter Pottinger indicated the Attorney General had instructed his Division to review all actions taken by the FBI against King. Requested were all materials concerning King that were provided to the Senate and House Select Committees on Intelligence; all COINTELPRO proposals, actions and results of actions; all requests, approvals and results, including tapes, transcripts and logs of electronic surveillances; all intelligence files; and our complete file on the investigation of the assassination of King. This letter further stated that the Civil Rights Division was interested "in reviewing every single item in your files which relates in any way to Dr. King, his family, friends, associates or SCLC." It is further noted that the Attorney General (letter dated 12/12/75) authorized Pottinger personal access to tapes, transcripts of tapes and other sensitive information concerning King and his case file. (u)

~~SECRET~~

Memorandum to Mr. T. W. Leavitt  
Re: Martin Luther King, Jr.

DETAILS CONTINUED:



(S)

(b)(1)

It is noted that the above outlined access will allow the OPR to review all raw files in our investigation of King. Included will be cover pages of documents containing the identities of some confidential sources and potential informants who were not concealed by symbol numbers according to our policy at the time. Cover pages will also contain identities of individuals who have furnished information to us on an expressed or implied basis of confidentiality. This review commenced 5/10/76, in Room 4171 of the JEH Building under the direction of Task Force leader Fred G. Folsom. The Task Force began reviewing files relating to our investigation of King's assassination. (S)

- 4 -  
~~SECRET~~

- 1 - Mr. J. B. Adams
- 1 - Mr. R. J. Gallagher  
(Attn: J. S. Peelman)

5/21/76

Mr. T. W. Leavitt

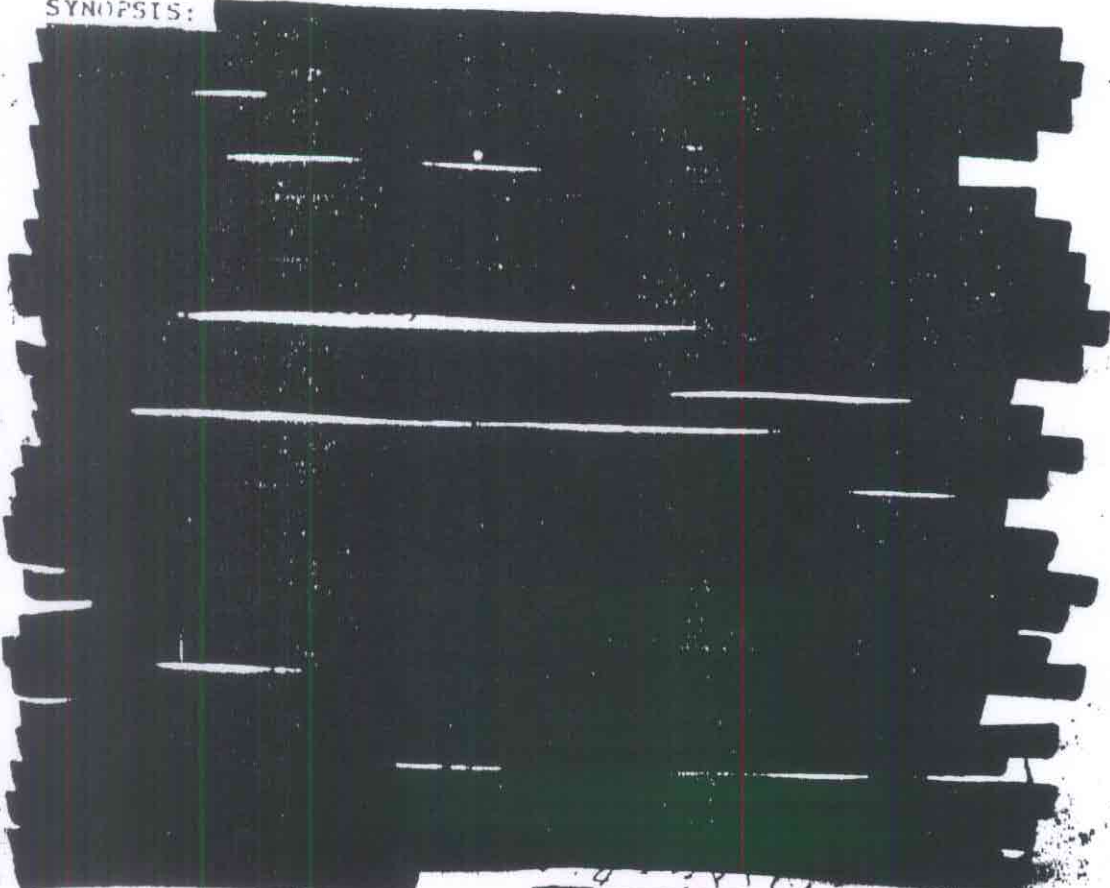
J. G. Deegan

MARTIN LUTHER KING, JR.

- 1 - Records Management Division
- 1 - Legal Counsel Division
- 1 - Mr. T. W. Leavitt
- 1 - Mr. J. O. Ingram
- 1 - Mr. J. G. Deegan
- 1 - Mr. J. T. Aldhizer

**PURPOSE:** To advise the degree of access to our files given the Department Task Force of the Office of Professional Responsibility (OPR) which is assigned to review our past investigations relating to Martin Luther King, Jr.

**SYNOPSIS:**



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