

Confidential

Dear Jim,

5/12/84

From my knowledge of FBI practises it is difficult to credit Hall's letter of 5/2/84 to you. From the untruthfulness in it, it becomes even more difficult to believe him. What is more likely, and this is consistent with Wiseman's record in that litigation, they just made up a story in the belief that a) it could not be disproven and b) even if it was, nothing would happen to them.

Like Wiseman swore that Kilty had searched for what he knew Kilty had not and Kilty had written him that he could not and would not.

"As you are undoubtedly aware, xerox copies of these photographs were later released to Harold Weisberg," Hall says. In fact I received photographic prints.

In fact, the prints provided do not match the description in the FBI's own itemization of them. I took this up with the FBI and got nowhere, I appealed and never got any response.

All of this after the FBI swore it had no crime-scene pictures when it had not fewer than three different complete sets of them, this attestation after Wiseman claimed to have searched the very file in which I located them and thus he knew and could swear that there were none.

After all this untruthfulness we are asked to believe that in the midst of litigation in which his word required support, Wiseman either a) made no notes and wrote no memos or b) made them and then destroyed them.

Moreover, rather than these being "confidential" the government made use of them in extradicting Ray. So far from being confidential is this matter that my source, rather one of my sources; on these pictures was a high Memphis Police Department official.

". . . the underlying notes, if any, were apparently disposed of in keeping with this Bureau's policy that raw notes of this nature are not committed to the permanent record. "

This is a tricky formulation. While the FBI has claimed to have such a policy with regard to investigative notes, and the recent DeLozrean fiasco is only one of the apparent reasons because the FBI is selective in including and omitting what is in the notes, in fact it is not a consistent policy and such notes have been preserved and have been disclosed to me. With regard to FOIA matters, to which there is no direct reference in the FBI's letter, in fact the FBI does as a matter of practise keep records of such phone conversations and has disclosed quite a few to me in several lawsuits. It is obvious that the FBI must know what it did and did not do in litigation and be able to support its representations in court.

"Inasmuch as it was the understanding of the MPD that information furnished to us by their Department would be maintained in confidence, a decision was made to withhold these photographs."

In general and with regard to these particular photographs the FBI's letter is not truthful. With regard to the photographs, they were used in the Ray extradition. This means either that they were not confidential or that there is a properly serialized and recorded FBI record in which it seeks MPD permission to make public use of the photographs and another in which that permission is granted. No such records were disclosed to me in that litigation. With regard to information in general, a large number of facsimiles of MPD records were disclosed to me and an even larger number of paraphrases of MPD information.

I am not claiming that there is nothing that is not incorrect in this FBI letter. I noted no errors in spelling.

Sincerely,





U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

MAY 2 1984

James H. Lesar, Esquire  
1231 Fourth Street, S.W.  
Washington, D. C. 20024

Dear Mr. Lesar:

Reference is made to your letter dated February 25, 1984, in which you request pursuant to the Freedom of Information Act (FOIA) copies of all records of or pertaining to the request by a non-Federal law enforcement agency that the FBI hold in confidence a group of crime scene photographs pertaining to the assassination of Dr. Martin Luther King, Jr., as set forth in the June 2, 1976, affidavit of SA Thomas L. Wiseman in Weisberg v. Department of Justice, (U.S.D.C., D.C.; C.A. No. 75-1996).

It is the recollection of SA Wiseman that the Memphis Police Department (MPD) was consulted telephonically for an FOIA release determination on their crime scene photographs. Inasmuch as it was the understanding of the MPD that information furnished to us by their Department would be maintained in confidence, a decision was made to withhold these photographs. Since these consultations with MPD were telephonic, no formal documentation was made. Because the above decision was formally documented in the June 2, 1976, Wiseman affidavit, the underlying notes, if any, were apparently disposed of in keeping with this Bureau's policy that raw notes of this nature are not committed to the permanent record.

As you are undoubtedly aware, xerox copies of these photographs were later released to Harold Weisberg by letter dated July 27, 1977, and are also maintained in the FBI's FOIA Public Reading Room.

Sincerely yours,

*James K. Hall*

James K. Hall, Chief  
Freedom of Information-  
Privacy Acts Section  
Records Management Division