



U.S. Department of Justice

Federal Bureau of Investigation

SEP 3 1987

James H. Lesar, Esq.
Suite 509
918 F Street, N.W.
Washington, D.C. 20004

FOIPA No. 245,852
RE: HSCA Correspondence File

Dear Mr. Lesar:

Reference is made to your letter dated August 10, 1987, seeking a reconsideration of our earlier fee waiver decision with respect to documents released to your client, Harold Weisberg, pursuant to captioned request.

Prior to its amendment in 1986, the Freedom of Information Act provided for a waiver or reduction of fees wherever it was found to be "in the public interest because furnishing the information can be considered as primarily benefiting the general public," 5 U.S.C. §552(a)(4)(A). The new statutory standard provides that documents be furnished without charge or at a reduced charge "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester," 5 U.S.C. §552(a)(4)(A)(iii).

As Department of Justice regulations implementing the new statutory change in fee waivers have not yet become effective, the 30% waiver granted to Mr. Weisberg has been reconsidered under both the new and old provisions to afford him the most benefit. Following a review of the releasable information contained in the HSCA correspondence file, I remain convinced that the 30% reduction of duplication fees is appropriate in this matter.

Of the 4,563 pages released in response to this request, 2,295 pages, or roughly half of the documents, have been previously processed and released to other requesters who have made this information widely accessible to the public. Scholarly Resources, Incorporated (SR), of Wilmington, Delaware, has purchased records on the King Assassination, the Southern Christian Leadership Conference (SCLC), the King Security file, and Cointelpro. This company then microfilms the documents and sells them to libraries and universities.

James H. Lesar, Esq.

Included in the material previously furnished to SR were copies of many of the documents provided to Mr. Weisberg from the HSCA correspondence file. David J. Garrow, winner of the 1987 Pulitzer prize in biography, has purchased the SCLC file, the King Security file, and related subjects. To date, he has published two books, extensively referencing FBI documents, some of which have now been furnished to your client. Much of the preprocessed material released to Mr. Weisberg is also available to the public through the Martin Luther King, Jr., Center for Nonviolent Social Change, Incorporated, Atlanta, Georgia. In addition, several of the documents were published by the HSCA and appear mainly in Volumes VI and VII of the Hearings Before the Select Committee on Assassinations of the U.S. House of Representatives, Ninety-fifth Congress.

The remainder of the file which does not consist of previously processed material, contains, for the most part, letters from the FBI to the Department of Justice forwarding information to be sent to the HSCA in response to their requests. Because these transmittal letters were standardized, they are generally repetitive and rarely contain any substantive information. In those instances where the subject of the HSCA request is actually mentioned in the transmittal letter, third party privacy exemptions have been used where appropriate. Additionally, as you are aware, the actual information provided to the HSCA by the FBI generally has not been made a part of the HSCA correspondence file.

For the reasons stated above, a reduction of duplication fees, rather than a complete waiver, is appropriate. Most of the records disclosed to Mr. Weisberg have either been previously released to the public or will be of only marginal value. Therefore, the public benefit derived from disclosure and the potential for an increased understanding of Government operations and activities will be diminished.

Sincerely yours,



Emil P. Moschella, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division