

AIRTEL

3/31/76

To: SAC, Memphis  
From: Director, FBI (44-38861)  
Subject: MURKIN

HAROLD WEISBERG V.  
U. S. DEPARTMENT OF JUSTICE  
USDC, D. C.  
CIVIL ACTION NO. 75-1996

Re telephone conversation from SA Parle Thomas  
Blake of Legal Counsel to SA Joseph Hester of Memphis Field  
Office 3/26/76.

Enclosed for Memphis is a copy of plaintiff's  
original request dated 4/15/75, copy of letter dated 12/1/75  
to plaintiff's attorney from the Deputy Attorney General,  
copy of letter dated 12/29/75 to the Deputy Attorney General  
from plaintiff's attorney, and copy of letter dated 2/23/76  
to SA Thomas L. Wiseman of FOIPA Section, Division 4, from  
plaintiff's attorney.

On 3/23/76 plaintiff and his attorney reviewed at  
FBIHQ material located through a search of Bufiles deemed  
pertinent to plaintiff's request. During the course of  
reviewing this material, plaintiff strongly indicated his  
belief that he had not been shown all material in possession  
of the FBI falling within the scope of his request. Plaintiff  
was advised that FBIHQ files were searched and that pertinent  
information concerning an investigation is channeled to  
FBIHQ. Plaintiff stated that he had "knowledge" of

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FBI

- Assoc. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Admin. \_\_\_\_\_
- Comp. Syst. \_\_\_\_\_
- Ext. Affairs \_\_\_\_\_
- Files & Com. \_\_\_\_\_
- Gen. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Inspection \_\_\_\_\_
- Intell. \_\_\_\_\_
- Laboratory \_\_\_\_\_
- Plan. & Eval. \_\_\_\_\_
- Spec. Inv. \_\_\_\_\_
- Training \_\_\_\_\_
- Legal Coun. \_\_\_\_\_

Enclosures (4)  
ENCLOSURE  
1 - Legal Counsel  
Attn: Mr. Blake  
1 - Mr. Gallagher  
Attn: Mr. Helterhoff  
1 - Mr. Cochran  
Attn: Mr. Kilty  
TLW:dkb  
(7)

REC-36 44-38861-6105

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6105

MAIL ROOM  TELETYPE UNIT

Airtel to Memphis  
Re: Murkin  
Harold Weisberg v.  
U. S. Department of Justice  
USDC, D. C.  
Civil Action No. 75-1996

additional photographs, etc., that must be in the Field Office files if they are not contained in FBIHQ files.

The referenced telephone call to Memphis indicated the possibility that Memphis files may contain some photographs, etc., which were not forwarded to FBIHQ.

In order to insure that we have completely complied with plaintiff's request, Memphis is requested to locate any material in its possession not previously furnished to FBIHQ which might be within the scope of plaintiff's request. The results of this review must be furnished to FOIPA Section, Records Management Division, by April 12, 1976. Any questions concerning this review may be resolved by contacting SA Thomas L. Wiseman, FOIPA Section.

NOTE: See memo from Legal Counsel to Mr. Adams, captioned as above, dated 3/25/76, which recommended that plaintiff be advised FBI would voluntarily search its Memphis Field Office in order to completely comply with his FOIA request.

JAMES H. LESAR  
ATTORNEY AT LAW  
1231 FOURTH STREET, S. W.  
WASHINGTON, D. C. 20024  
TELEPHONE (202) 404-6023

APR 15 1975

DEPUTY  
April 15, 1975 GENERAL

FREEDOM OF INFORMATION REQUEST

The Deputy Attorney General  
U. S. Department of Justice  
Washington, D. C. 20531

Dear Sir:

On behalf of Mr. Harold Weisberg I am requesting disclosure of the following information on the assassination of Dr. Martin Luther King, Jr.:

1. The results of any ballistics tests.
2. The results of any spectrographic or neutron activation analyses.
3. The results of any scientific tests made on the dent in the windowsill of the bathroom window from which Dr. King was allegedly shot.
4. The results of any scientific tests performed on the butts, ashes or other cigarette remains found in the white Mustang abandoned in Atlanta after Dr. King's assassination and all reports made in regard to said cigarette remains.
5. All photographs or sketches of any suspects in the assassination of Dr. King.
6. All photographs from whatever source taken at the scene of the crime on April 4th or April 5th, 1968.
7. All information, documents, or reports made available to any author or writer, including but not limited to Clay Blair, Jeremiah O'Leary, George McMillan, Gerold Frank, and William Bradford Huie.

This request for disclosure is made under the Freedom of Information Act, 5 U.S.C. §552, as amended by Public Law 93-502, 89 Stat. 1561.

Sincerely yours,

*Jim LESAR*  
44 3561 6105

DEC 1 1975

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

Dear Mr. Losar:

This is in further response to the pending administrative appeal under the Freedom of Information Act filed by you on behalf of your client, Mr. Harold Weisberg, from the denial by Director Clarence M. Kelley of the Federal Bureau of Investigation of Mr. Weisberg's request for specific records and photographs relating to the assassination of Dr. Martin Luther King, Jr.

After careful consideration of this appeal, I have decided to modify Director Kelley's action in this case and to grant access to every existing written document, photograph and sketch which I consider to be within the scope of Mr. Weisberg's request. Minor excisions have been made from the documents to delete purely internal agency markings and distribution notations, as well as the names of Bureau personnel. In my opinion, the matter so excised is not appropriate for discretionary release.

The results of all "ballistics tests" [item number 1 of Mr. Weisberg's request], as performed on either the death bullet or Mr. Ray's rifle, are included with the materials to be released. "Spectrographic or neutron activation analyses" [item number 2 of the request] were made only on the clothing worn by Dr. King at the time of his death. All eight pages pertaining to such tests will be released. The results of all "scientific tests made on the dent in the window sill [sic]" [item number 3 of the request] are available for release to your client, including both written reports and photographs of the window sill and rifle barrel. All "photographs or sketches of any suspects in the assassination" [item number 5 of the request] are to be released. These photos and

cc: Federal Bureau of Investigation

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sketches portray only Mr. Ray, as there never were any other suspects in the case. It may be that the Department has no photographs "taken at the scene of the crime" [item number 6 of the request], in the sense your client uses the phrase. To the limited extent that we have photographic and other materials that depict physical conditions or events, they will be released to Mr. Weisberg. In the event that the non-photographic materials are of no interest to him, they may be returned.

The Department of Justice never received any "butts, ashes or other cigarette remains" from the "white Mustang abandoned in Atlanta," and for that reason did not perform any scientific tests thereon [item number 2 of Mr. Weisberg's request]. A two page schedule of all evidence acquired from the Mustang is included, without charge, in the package to be released. Similarly, as to item number 7 of the request, no "information, documents, or reports made available to any author or writer" can be identified as such in our records. To avoid any misunderstanding, I wish to advise you that no release of any materials relating to the death of Dr. King has been made to any person other than law enforcement or prosecutive authorities, except for the so-called "extradition papers" which were shown in 1970 to Bernard Fensterwald, Jr., Esquire, then the attorney for your client Mr. Weisberg, and which are in the public domain. In 1971 these same papers were made available to another person not named in item number 7, who may or may not be a writer. In any event, if Mr. Weisberg wishes access to the extradition papers, his written request in that respect should be addressed to the attention of the Freedom of Information and Privacy Unit in my Office. Based on the foregoing facts, I have concluded that there are no records within the scope of either item number 4 or item number 7 of Mr. Weisberg's request. There can, of course, be no denial of access where there is no record; there can be no appeal where there has been no denial of access.

In adjudicating this appeal as to item number 1 of Mr. Weisberg's request for "results of any ballistics tests," I have not included as matters for consideration the results of a great number of ballistics tests performed on rifles other than the one owned by Mr. Ray. If Mr. Weisberg wishes access to them, he should make a specific written request to Director Kelley, attention Special Agent Thomas Wiseman, agreeing to pay both the costs of reproduction and the special search fees which

will be necessary to locate and identify the same, as provided by 28 C.F.R. 16.9(b)(6). In addition, in an effort to save your client considerable expense, I have construed item number 6 so as not to encompass the several hundred photographs in Bureau files of Dr. King's clothes, the inside of the room rented by Mr. Ray, or various items of furniture and personal property. If Mr. Weisberg does, in fact, wish copies of these photographs, he should make a further request for them and agree to pay the reproduction and special search costs which will be involved.

Your client will now be furnished seventy-one pages of material for which the charge is ten cents per page, the two-page schedule of evidence at no charge, fifteen black and white photographs at their reproduction cost of forty cents each and three color photographs at their reproduction cost of three dollars each. Please remit \$22.10 to the F.B.I. headquarters office, Washington, D. C. 20537, attention Special Agent Wiseman, specifying whether you wish the materials mailed or held for you to pick up. As a matter of my discretion, I am waiving \$80.00 in special search fees which could be charged for non-clerical work in connection with this request and another one for many of the same materials.

Because of the nominal excisions of agency markings and the names of agents, I am required to advise you that if Mr. Weisberg is dissatisfied with my action on this appeal, judicial review thereof is available to him in the United States District Court for the judicial district in which he resides, or in which he has his principal place of business, or in the District of Columbia, which is also where the records he seeks are located.

Very truly yours,

Harold R. Tyler, Jr.  
Deputy Attorney General

JAMES H. LESAR  
ATTORNEY AT LAW  
1231 FOURTH STREET, S. W.  
WASHINGTON, D. C. 20024  
TELEPHONE (202) 484-6023

December 29, 1975

Mr. Harold Tyler, Jr.  
Deputy Attorney General  
J. S. Department of Justice  
Washington, D. C. 20530

Dear Mr. Tyler:

Your letter of December 1, 1975, is apparently intended to give the appearance of good faith compliance with Mr. Harold Weisberg's April 15, 1975, request for the disclosure of certain records pertaining to the assassination of Dr. Martin Luther King, Jr. Unfortunately, this is achieved by rephrasing Mr. Weisberg's request so as to exclude most of the records sought.

For example, Mr. Weisberg's April 15 request specified that he wants the results of any ballistics tests performed in connection with the investigation into Dr. King's assassination. Yet you rephrased his request in a manner which excludes all ballistics tests except those performed on the bullet removed from Dr. King and the rifle placed at the scene of the crime. However, as his request clearly states, Mr. Weisberg wants all ballistics tests and reports, not just those performed on the murder bullet and the rifle placed at the scene.

In response to Mr. Weisberg's request for the ballistics evidence, you provided him with three distorted color photographs of the bullet removed from Dr. King. Mr. Weisberg wants all photographs taken for ballistics purposes, including all photographs taken with the aid of a comparison microscope and all blowups of any photograph.

With respect to Mr. Weisberg's request for all photographs taken at the scene of the crime, Mr. Weisberg defines this term broadly to include all of the buildings and areas in the immediate vicinity of the crime site. It would include, for example, photographs taken of the Lorraine Motel, Canipe's Amusement Center, the parking lot, the fire station, the rooming house at 418 1/2 to 422 1/2 S. Main Street, and any areas in between or adjacent thereto. It also includes photographs of the interior of any of these buildings and of any objects found in them.

When I spoke with Mr. Volney Brown two or three months ago, he said that the Department would have no objection to a procedure which would allow Mr. Weisberg to examine these photographs first, then

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select which ones, if any, he wishes to have copied for him. This, of course, will save everybody time and money.

I would appreciate it if this examination of the King assassination materials could be arranged for the earliest possible mutually convenient date. Mr. Weisberg is suffering from a serious case of phlebitis and no longer travels to Washington as frequently as he did in the past. This is why I phoned Mr. Wiseman on December 22nd to ask if he could arrange for Mr. Weisberg to view the photographs of the scene of the crime and the excluded ballistics materials on the afternoon of December 23rd when Mr. Weisberg was coming to D.C. for a medical appointment. Mr. Wiseman informed me, however, that the FBI agent responsible for assembling the King assassination documents had told him that it would not be possible to reassemble them in time for Mr. Weisberg's visit the following afternoon. Hopefully, Mr. Weisberg's examination of these materials can be arranged to coincide with his next trip to D.C.

With respect to the ballistics materials sought by Mr. Weisberg, he has asked me to inform you that as of this date he has still not received the results of the ballistics comparisons which the FBI did perform. He further states that, notwithstanding Mr. Shea's letter of December 23, 1975, what has been provided him of the spectrographic and neutron activation analyses is incomplete and does not meet the normal standards for such tests.

You state that the photographs and sketches of suspects in the assassination of Dr. King portray only James Earl Ray "as there never were any other suspects in the case." If you are not already aware of it, I think you should be informed that on April 17, 1968, FBI Special Agent Joseph H. Gamble filed a conspiracy complaint with the U.S. Commissioner in Birmingham, Alabama. If, as you say, there never were any other suspects in the case, doesn't this constitute abuse of process?

I should also inform you that Mr. Weisberg and I have seen a sketch of at least one other suspect in the murder of Dr. King. In view of this, I suggest that you have the FBI make a further check of its files to see if it cannot find additional photographs and sketches of suspects in the assassination of Dr. King.

In reply to Mr. Weisberg's request for "all information, documents, or reports made available to any author or writer," you state that no information, documents, or reports made available to any author or writer "can be identified as such in our records." Assuming this to be true, it still dodges the issue by the use of semantics. As I indicated to Mr. Volney Brown when we spoke about this a couple of months ago, I think it is relatively simple for you



to ascertain what materials are included within this request if you will just make a few inquiries of the appropriate authors, writers, and FBI officials.

The alternative, of course, is to proceed to take depositions and testimony from these officials and writers and let the district court determine the matter. I think this is unnecessary, since the fact that FBI materials were made available to writers and authors is incontestable. I note, for example, that in his book The Strange Case of James Earl Ray, Clay Blair, Jr. thanks the FBI for its assistance. In addition, Mr. Weisberg informs me that some of the writers listed in his information request have copies of such evidence as the autopsy photographs which have been denied James Earl Ray's defense and that they have flashed FBI reports on the King assassination in order to impress people. Moreover, one of the writers mentioned in Mr. Weisberg's request has obtained copies of the bank records of Ray's sister, Carol Pepper.

In closing, let me apologize for the delay in responding to your letter. I work entirely alone. I have no secretary or law clerk to assist me and must of necessity do my own typing and filing. Recently I have been very pressed for time and this accounts for the delay. However, Mr. Weisberg did write both you and Attorney General Levi about these and other matters soon after he received a copy of your letter and I trust you paid him close attention.

Sincerely yours,

*Jim Lesar*  
Jim Lesar

c: Attorney General Edward H. Levi  
FBI Director Clarence Kelley  
FBI Special Agent Thomas Wiseman

JAMES H. LESAR  
ATTORNEY AT LAW  
1231 FOURTH STREET, S. W.  
WASHINGTON, D. C. 20024  
TELEPHONE (202) 484-8023

February 23, 1976

Mr. Thomas Wiseman  
Information and Privacy Unit  
Federal Bureau of Investigation  
Washington, D. C. 20537

Dear Mr. Wiseman:

On December 22, 1975, I phoned to ask if you could arrange for Mr. Harold Weisberg to view the photographs of the scene of Dr. King's murder and the ballistics materials he had requested the following afternoon, December 23rd, when he was coming to D.C. for a medical appointment. You told me that the FBI agent responsible for assembling the King assassination documents said that it would not be possible to reassemble them in time for Mr. Weisberg to see them on December 23rd. This was the only reason given for his not being able to inspect these records on that date.

Subsequently, on December 29, 1975, I wrote Deputy Attorney General Harold Tyler a letter in which I expressed the hope that Mr. Weisberg's examination of the requested materials could be arranged to coincide with his next trip to D.C., because he suffers from a serious case of phlebitis which makes it inadvisable for him to travel frequently. Copies of this letter were sent to you and FBI Director Clarence Kelley. I received no response.

After the calendar call on February 5, 1976, Mr. Weisberg and I met briefly with Assistant United States Attorney John Dugan and sought to enlist his good offices in arranging for Mr. Weisberg's inspection of your records to coincide with his next trip to D.C.

Today I called to ask that you arrange for Mr. Weisberg to examine these materials when he comes to Washington this Thursday, February 26th. However, you called to my attention a statement in Mr. Tyler's December 1, 1975, letter to me which required that Mr. Weisberg agree to pay the "reproduction and special search costs" if he wanted the photographs which he had in fact requested. You said, correctly, that Mr. Weisberg had not written you agreeing to pay these costs.

Shortly afterwards, Mr. Dugan called. He told me that you would not institute the "search" for these photographs until you received Mr. Weisberg's written agreement to pay the search costs. He also informed me that you could not have the requested materials ready by this Thursday.

ENCLOSURE

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I write, first, to assure you that Mr. Weisberg will pay the necessary search and reproduction costs but he does not waive his right to recover them.

I note, however, that when CBS News requested some of the same records sought by Mr. Weisberg, the search fees were waived.

I also advise you that I know of two Freedom of Information suits where well-known millionaires have not been charged a cent by the Department of Justice for searching for the records requested of them. This contrasts glaringly with the treatment accorded my client, who can ill afford such fees, and is an affront to the spirit and meaning of the Freedom of Information Act.

Secondly, I ask you to state your agreement with the assurance Volney Brown gave me last summer that Mr. Weisberg will be allowed to examine and select those documents and photographs he wants copied, rather than your foisting upon him, sight unseen, whatever you may determine to be within the purview of his request.

Thirdly, I ask that you select a date on which Mr. Weisberg will be allowed to examine the photographs and records which he requested. I believe Mr. Weisberg will be able to examine these records on any day between March 1 and March 6, or on March 15. I would appreciate it very much if you could advise me at the earliest possible time which date you prefer.

Sincerely yours,

*Jim Lesar*  
Jim Lesar