



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

AUG 7 1987

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

Re: RFK Assassination
FOIPA No. 255,315

Dear Mr. Lesar:

Reference is made to your civil action against the FBI and the Department of Justice (DOJ) on behalf of Gregory Stone and Philip Melanson, USDC, DC no. 87-1346, in which your clients seek court ordered disclosure of the identities of all FBI Special Agents contained in the Robert F. Kennedy (RFK) Assassination investigative file. We wish to further clarify our position and provide you the opportunity to reconsider your assertion that identities of FBI Agents involved in the RFK investigation should be made public.

You have not demonstrated a compelling argument to support the wholesale disclosure of FBI Agents' identities in disregard for their personal privacy. The hundreds of FBI Agents who conducted interviews did not have extensive first hand knowledge of much of the investigation, but merely transcribed information obtained through interviews. These FBI Agents, after these many years, can provide little additional information other than what they reported in the file. The identities of those few FBI Agents having knowledge of the deployment, coordination and institutional activities of the FBI investigation were released to you.

Recent court decisions, i.e. Senate of the Commonwealth of Puerto Rico on Behalf of the Judiciary Committee v. DOJ, USDC, DC no. 84-1829, appeal no. 5257, support our position that FBI Agents have compelling privacy rights under the Freedom of Information Act (FOIA). In the past, the circuit courts of appeals which have addressed the question of the disclosability of the identities of law enforcement officials have uniformly held that the balance



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tilts strongly in favor of withholding. The view is enhanced by the recent amendments of the FOIA, and in particular, exemption (b)(7)(C), which now leans further towards the privacy rights of individuals. The FBI no longer needs to conclusively demonstrate that a release would constitute an unwarranted invasion of personal privacy. The amended standard of (b)(7)(C) provides for the withholding of information when the release of such "could reasonably be expected to constitute an unwarranted invasion of personal privacy."

Although the FBI conducted an investigation into the assassination of Robert F. Kennedy, the Los Angeles Police Department (LAPD) had the primary investigative responsibility. A portion of the LAPD file has been released and the remaining 50,000 pages are due to be released soon.

Between the LAPD and the FBI releases which add substantially to the historic record, and in consideration of the fact that both the case law and the amended FOIA support our side of the privacy issue, we request you reconsider your position.

In the spirit of cooperation and in an effort to avoid costly and time-consuming litigation, we ask again that you provide us with the public source information that discloses the identities and the context in which the identities of FBI Agents who participated in the investigation into the assassination of Robert F. Kennedy are revealed. This information is crucial in order to overcome the normal consideration of privacy afforded FBI Agents.

Sincerely yours,

Emil P. Moschella

Emil P. Moschella, Chief
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