

Central Intelligence Agency



Washington, D.C. 20505

APPROVED FOR  
RELEASE  DATE:  
22-Jul-2010

9 September 2004



Reference: F-2004-01956

Dear

This concerns your 8 August 2004 letter requesting records under the provisions of the Freedom of Information Act (FOIA). Specifically, your request is for:

**“A copy of all CIA-generated and CIA-received records pertaining to Mr. [John Joseph] McCarthy’s military career, his CIA-directed activities, his associated communications, his post-‘Cherry’ litigation history, and his CIA-managed ‘case file’.”**

We assigned your request the number referenced above for identification purposes. Please refer to this number in future correspondence.

Concerning your request, to the extent that you seek records that would reveal a covert connection between CIA and the subject of your request, I must inform you that the CIA can neither confirm nor deny any confidential or covert relationship, or interest in developing such a relationship, with any particular individual, organization, or other entity. Records disclosing this type of information necessarily would be classified pursuant to Executive Order 12958. Further, the fact of the existence or nonexistence of such records would relate directly to information concerning intelligence sources and methods which, in accordance with Section 103 (c)(6) of the National Security Act of 1947 and Section 6 of the CIA Act of 1949, the Director of Central Intelligence has the legal responsibility and obligation to protect from unauthorized disclosure.

Therefore, to the extent your request might concern records containing such information, it is denied pursuant to FOIA exemptions (b)(1) and (b)(3); an explanation of these exemptions is enclosed. The CIA official responsible for this determination is Scott Koch, Information and Privacy Coordinator. By this action we are neither confirming nor denying that any such information exists. You have the

right to appeal this determination by addressing your appeal to the Agency Release Panel, in my care. However, we will be unable to accept such an appeal until the processing of your request has been completed, at which time you may submit an appeal within 45 days from the date of our final response letter. Should you choose to do this, please explain the basis of your appeal.

With respect to the part of your request that seeks other information, including that which might reflect an open or otherwise acknowledged Agency affiliation, we can search for responsive records. Before we can begin processing, however, we must have your commitment to pay fees as described below.

Concerning your request for a fee waiver, I am required to consider your FOIA request in light of the rules and regulations governing the waiver of fees as published in the Code of Federal Regulations [CFR Title 32, Chapter XIX, Section 1900.13(b), enclosed] as well as relevant Department of Justice and Office of Management and Budget guidelines. I reviewed your request and determined that your petition does not meet the requirements of those regulations. Release of the information you requested would not be likely to contribute significantly to public understanding of the operations and activities of the United States Government. Accordingly, in this instance your request for a fee waiver is denied, and we must have your commitment to pay all fees before we can begin processing your request.

Based on the information in your letter, your request would be placed in the "commercial" fee category. This means that you will be responsible for the full direct costs for searching, reviewing and duplicating responsive records. In accordance with Section (a) of the schedule, search fees are assessable even if no records are found or, if found, we determine that they are not releasable. This means you will be charged even if our search results are negative or if it is determined that no information is releasable under the FOIA.

We will hold your request in abeyance for 45 days from the date of this letter pending your commitment to pay assessable fees.

Sincerely,

A handwritten signature in black ink that reads "Scott Koch". The signature is written in a cursive style with a long horizontal line extending to the right.

Scott Koch  
Information and Privacy Coordinator

Enclosures

