

Dear Jim, 75-1448, CIA withholdings

10/12/76

The "emergency" of that radio announcer who interrupted our conversation must have subsided. It is 15 minutes since we finished and I gave the message to call again in 5. There is something vaguely familiar about Dave Foxdale but I don't place him. Probably a talk show with a caller-in on the other line.

There is something I did not want to go into over the phone that can explain the long delay in answering the interrogatories. It is another aspect of what I told you I found in what I got from Archives today, misuse of EO 11652 and all classification and what they call "unclassification" of what was never classified.

I thought I explained earlier but maybe I did not. Some of the questions I gave you constitute the most direct frontal assault on the CIA's position on classifications, withholdings, exemptions and other legislative authority. They have been getting away with murder, if you'll excuse the expression, simply because nobody has tangled with them on these frivolities.

There is also the most pointed locking of horns with their man Briggs, who can't possibly justify any of the masking I've seen. In fact, what I just got was never subject to classification or withholding and he did both. He is also the "authority" for the maskings in the released JFK stuff. They have not even acknowledged my appeal on the masking, a separate request and I'm sure appeal.

They are better off risking Robinson's wrath than complying or even answering our interrogatories, so they opt lesser evil. They'll have some silly explanation but this time it will not be that Ryan didn't know there are interrogatories!

This leads to the contempt request in 1996. There is no doubt in my mind that there was contempt on the parts of all named. But also important is the effect, even if as I expect Green rejects it, on them all and on her and other judges. I mean the contempt thing with complete sincerity, but I'm also pointing out the side effects.

We have been patient in all cases. They have been dilatory in all. They have the power to get away with being bad guys. They may assume Green will not react our way. But they also will assume that it is a beginning and that we'll do the same thing again. It may discourage some of the dirtiness.

I'm in accord on the move with the Civil Service Commission but I regard it as much less significant than a move for contempt. To those hard-passed FBU agents and those DJ lawyers who've been getting away with white-collar crime for years a bad mark from Civil Service may result in a raise. They are neither innocent in all of this or doing it on their own. I left Cunningham out but all the other FBI agents are perjurers, not merely in contempt. (Please tell me the couple of places in the affidavit that left you uneasy.) We agree that there is an airtight case on Horn. I think also on the others. I've sent you a carbon of the letter I wrote when you were in Singapore. Bagby assumed we'd move for contempt on Shea. Buckley and Gross are lawyers, so I think they qualify for citation based on their affidavits, Buckley more so with what I attached between him and Whitten, I think.

Something else figures in my thinking on these questions. It is a fact that I am offering all the judges the only relief possible for them. They will all be aware, however they act and react. This means that Green has to worry about whether the appeals court will have come to the point where they want to lighten their load. Robinson is long overdue in ruling on his in camera inspection of the 5/19 transcript. Pratt let Ryan off with when he not only knew Ryan had lied but the clerk told him. He wanted to give Ryan still another month, after two of them. So we will be giving the judges a chance to straighten it out or worry about not taking the chance we give. I think they may, especially if they know of the GAO look-see for the Congress. It is the time to press.

Best,