

Dear Jim, 75-1996; SA Donald Smith's call to you today 10/26/76

Some of the possibilities are obvious, some not. I do take his call to be a clear signal of their concern, however. They are, from their schedule that I would not accept, ready with exactly the number of pages Dugan offered, only two weeks early. They are bucking for a good-faith ~~credit~~ boy-scout badge.

I take this to mean they also are uneasy. Let us make them uneasier. And let us put some pressure on the tolerant Green.

Our motion was on the 8th. By the time I see you there will have been three full weeks. We have not had and I am sure we will not have a proper response by then. Whatever the legal form is, we want her order on full and complete compliance by 12/15, without unjustified excisions or withholdings and with affidavits based on first person knowledge in justification of all withholdings.

I will not now accept anything less- and this is not all.

You will recall that while I did not expect exactly this I did expect that they would go over what is less damaging to them first. This is why I said I want to specify which of the items I want searched first. I have said that pretended compliance from their fictional means of compliance, the FBI Central Index, is assured non-compliance. I will not under any circumstances accept their pretense of compliance from that as even token compliance. I'll gladly get nothing as an alternative, but I'll make a fight of it and get some good out of it. I just don't have the time they are taking and the time Green has taken with all the other cases. This is a 1969 request, not 12/75.

Meanwhile, I will not lose sight of the fact that there has not been compliance with the 4/15/75 request. In whatever way possible make a vigorous issue of this. They are trying the old cherry-picker play on us and Green is horrified of the work she may face. Give her a choice between being a judge and being a foil.

My first request was for the evidence said to incriminate "ay. That happens to be my most immediate need. I want them to search and certify on that first, including all the filed offices with relevant records. Not whatever this substitute for Wiseman has opted.

We need first-person affidavits from everyone on compliance with the 4/15 request. Not their rewriting of it. That they have rewritten it is plain in the record. There has not been compliance even from the FBI central index. They have not complied with our motions on the indices and 25 volumes that are within that request. Their game with Smith telling you 12/75 is an end run.

They have a new problem now: a sitting House committee. Give them all the pressure possible. If Green aspires to go higher, then this will also be pressure on her. We have a good enough record.

I am inclined to think that this is not really a very complicated matter. Dugan still had not presented a plan. His time is more than up. Maybe it is now the time to move for summary judgement because that does not relieve them of the responsibility for providing all they come across and they do have the other requests and the House committee's needs to meet.

Whatever the deficiencies of the record it is a very good record, especially with the possibility of Congressional interest and looking into. I think the time to force the issue on all points is right now. There has been no compliance with any of my requests ~~zzqzqz~~ when by their own schedule all are long overdue. There has been no compliance with any one thing Green said. There has not been proper response to many motions. I'd even force the Vaughn motion now and give Green her options. If she wants that, let her have it. If she wants to reject it, the record will not support her. Their best offer, so very late, is illegal and meaningless and requires another year. I do not think any appeals panel will sit still for that and I do not think Green will want this to go up. If she doesn't like Vaughn, she created the situation. Let her as an alternative issue a meaningful order with unladylike teeth in it.

If we put this together we are driving the awkward machine. Losing is cheaper than what lies ahead as an alternative to an immediate vigorous push. Besides, we can't lose.

The giveaway is their fixing on the exact number of pages they promised but in half the time. They are worried. Let us worry them much more. Best