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Frederick, Md. 21701

January 20, 1978

Mr. Guinlan J. Shea  
FOIA/PA Officer  
Office of the Deputy Attorney General  
Department of Justice  
Washington, D. C. 20530

Dear Mr. Shea:

While you may regard this as a new request and a new appeal under FOIA and PA, I do not. I regard the matters of which I now write again as of the past and covered by prior requests that are without compliance and appeals that are without response, even without pro forma acknowledgment.

I do not include recent requests made for me by Jim Lear.

Where the Department and its various components have not totally ignored my many requests under FOIA going back a decade now, when I have taken it to court it has rewritten my requests to be able to avoid compliance and I believe to exert a great amount of time from me. Some purposes are made explicit in records I have obtained: to "stop" me. If you, with the arbitrariness and capriciousness that has characterized your actions of the past, decide that these are new requests and appeals, I ask that you inform me of the sequential numbers you have applied and the time by which I may expect what you will certify to be full and complete compliance by all Departmental components.

Despite your unrestricted and utterly inappropriate remarks relating to my health in an affidavit, a matter about which you then had no basis for making comment of any nature, my health and the limitations it has imposed upon me require that I repeat a request as well as an appeal from denials of requests relating to the records on or about me. I require these records because of the difficulty of retrieving my own copies. I also want them for deposit in a public archive.

After earlier effort proved fruitless in 1968, I began making FOIA requests for records. In some instances the use of the form was not required of me. When use of the form was required, I accompanied each with the required check. The records that should be supplied include but are not limited to each and every request, regardless of whether it was by letter, by form, or by form accompanied by letter, as well as records of the checks, all of which were cashed.

There are also matters referred to the Department by other agencies of which I made requests. Such records are within my requests.

When you do as I now ask again, you should learn what requests I have made, which are without compliance and which are without full compliance where there has been partial compliance.

I am aware of some of your representations to the Congress and of some you made in affidavits. Comparisons of your affidavits with your letters and other records relating to requests establishes that you play games with statistics.

You also should learn that this entire matter has been quite costly to the government in both time and money and that it was and is costly to me.

Depending on the degree to which you avoid compliance and a real review, you should learn that the courts have been misled - systematically - and that the Department has also withheld systematically. Only the most recent occasion was in my Civil Action 77-155, on Monday, January 16, 1978. Recently released records establish that there

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were such withholdings before the filing of and in my Civil Actions 75-226 and 75-448. (Both are now before the appeals court.)

The cost to me is increased because for almost three years it has been difficult for me to file records as I would have preferred to. Sometimes this is impossible.

In connection with my C.A. 75-1996, to which the foregoing observations also apply, I asked a student to go over my files and my unfiled records and to extract each FOIA request I made of the Department and its various components and of the CIA. That work was not done efficiently. Since then my wife has spent a considerable amount of time doing this work. I believe she has isolated requests in addition to the 25 or so to which I testified in C.A. 75-1996. By that testimony in September 1976, all FOIA and legal officers were made aware.

Over a long period of time I have also been engaged in correspondence having to do with noncompliance with regard to C.A. 75-1996 and with regard to my FOIA/PA requests of the FBI and other Departmental components.

At the Department's request, I am currently engaged in a review of what records I made and can locate relating to noncompliance in C.A. 75-1996. If my earlier FOIA/PA requests do not in your opinion include the records relating to this correspondence, then I ask that you regard this as a new request for such records under the Acts.

When I came to believe that the FBI's January 18, 1978, release of records related to the JFK assassination and could see how this could be misused to defend those who wrote unapprovingly of the official investigation and explanation of that crime, I asked Mr. Lassar to write the Department. He notified it that, because it had deliberately violated my rights under PA over a long period of time, I was insisting on the preservation of those rights until there had been full compliance. This would have enabled me to file refutations of the various fabrications, distortions, misrepresentations and just plain lies. Long before that I put the FBI on notice about this with what I wrote it and by providing copies of my own records.

The night of January 19, 1978, a reporter told me records on me were released. I therefore call to your attention two of the FBI's concoctions of false and defamatory records. It distributed some widely, including to the White House and the Congress. One is that my wife and I held annual celebrations of the Russian Revolution. This is totally false. The only thing to which this could refer was in the second month before the Russian Revolution is celebrated. It was a religious affair, entirely nonpolitical. It was conducted by a rabbi of the Jewish Welfare Board.

The second illustration is the FBI's total fabrication of an alleged conspiracy between me and the most vocal anti-Semite of whom I know, J. B. Stoner of the National States Rights Party. This fabrication was inspired by the FBI's anxiety to continue to keep secret its Cointelpro-type acts. In that particular case I told the Department what I had been informed about provocation to extreme racial violence by those alleged to be serving the FBI.

That was in 1949. Now we know this was not innocuous and that it was pursuant to FBI policy.

It should be readily apparent that the FBI's falsifications could not come much closer to 100 degrees of infidelity.

I use this also to illustrate why Departmental components, including Internal Security and Criminal Divisions, remain in noncompliance with regard to what really happened, not this FBI falsification.

I had been asked by the Criminal Division to go to the Internal Security Division, to which I went twice, once accompanied by my wife. There was some correspondence. Records were made. No Division has provided any such records, despite my requests

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and repeated appeals.

It now appears that by noncompliance the Department foreclosed me from use of the protective provisions of the Privacy Act and more recently disregarded Mr. Lessor's letter on this. It also appears that the Department did make such releases on January 18, 1978, for obvious propagandistic purposes that have been defamatory.

The almost 60,000 pages released January 18, 1978, were sent to me in 15 large boxes. There is no list or inventory in the notification of shipment dated January 18, 1978. I have no way of knowing in which carton or cartons to search. If I did and if they were all in that carton, I could then have about 4,000 pages to read if I were to locate them. I trust you can realize the impossibility of having the space required for spreading out some 60,000 pages for such a search.

You should have a review set of the records available to you. Those who conducted any such review should be aware of whether or not these records contain personal references to me of the nature I have indicated, references that would be subject to correction under FA. Whether or not this is so, the FBI should be able to provide specific citations to volume and serial number. I therefore suggest that all interests may be best served by providing Mr. Lessor with copies of any such records and providing me either with those or with citations to volume and serial identification.

As of now I have no way of knowing whether or not the records released are defamatory or prejudicial. They were released without consultation with me or my attorney and without any response to our letters. I believe that the Department had ample prior notification of my desire to exercise my rights with regard to this matter long before I had any reason to believe it would engage in so overt a name management effort. This was publicized extensively with regard to those with whom I do not have a friendly relationship. If this has been done or made possible with regard to me, I will consult with Mr. Lessor to determine whether or not I have been damaged and, if I have been, what he recommends.

In this connection you should also be aware that when I appealed the very limited compliance months ago, I did inform the Department that when I received all the records and had an opportunity to prepare statements of correction, I would make both the records and my statements public. I therefore believe that if defamatory records have now been released, the Department's most apparent intention was to defame me.

(Unprintable comments made to the press have been relayed to me.)

Records relating to me are in various Department files that go back to before World War II. In some cases I specified the records that remained withheld without obtaining any of those I did identify. It is for this reason that I did not identify all of them, there being no basis for assuming that there had been a good-faith search. Over a long period I have informed the officials of this situation, including those in the Office of the Deputy Attorney General.

To illustrate the magnitude and the deliberateness of the withholdings, I cite an old matter. There then was an effort to procure an indictment of me when I had done nothing wrong. The Department reportedly hauled me before a grand jury. The grand jury refused to indict me. However, it did indict the Department's chief alleged witness. I described and otherwise identified this case to the Department after I received written assurances of full compliance without receiving those records.

The foregoing is not a unique illustration.

In another case when a very long time passed without my receiving anything, I believe without even a statement that more time would be required, my wife filed a duplicating request in her name. Within a not exceptional period of time she received extensive if not full compliance. (I believe her appeal has not even been acknowledged.) On my request the Department remains in total noncompliance after three years.

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I have even provided the identification of old files containing material on me without receiving anything from those files.

With regard to the FBI and to records covered by several of my requests, I have notified the FBI of the means by which it sought to circumvent my requests. My notification has been followed by months of silence.

I have taken this time to inform you in what I regard as sufficient detail and to let you know that, while this is by no means a full statement, I believe it represents more than enough for me to go to court - if I have no alternative. It is the Department that will be making this determination. If, belatedly, it now complies fully, there will be no need to pursue all these many requests that await without response for up to a decade.

On the other hand, if it does not, then at my age and in my condition, I will refer this to counsel and ask that he proceed as rapidly as possible.

There is a long record of cases that did not have to go to court. These were forced to court by the Department. Perhaps at some time this costly record will be of interest to those outside the Department. Aside from what it will establish with regard to the Acts and compliance or noncompliance with them, I believe that any cost accounting will disclose the waste of large amounts of government money and of the time of employees whose time might better have been used for other and proper functions ranging from detecting crime to prosecuting it.

In my cases in the recent past, three different federal judges have made statements from the bench consistent with the foregoing paragraph.

I do hope that you will not force further unnecessary litigation on me.

I am informing Mr. Lassar by a carbon copy. I am physically unable to consult with him now. However, I do want to do anything I may be required to do - if I have no other choice - as soon as it is possible. I save several days and much of Mr. Lassar's limited time by writing you myself rather than by burdening him with matters I have not already referred to him.

Sincerely,

Harold Weisberg