

Dear Jim, Your conference with Civil Division people today 1/26/78

While I can't really say that I have been able to sit down and think this through I guess that to a large degree over a period of years I have already done that thinking.

Our 2x4 is now long enough and if they realize it or not their heads are now low enough for us to have a shot at bringing the head and the 2x4 in contact. Let us make the effort.

If you do not have a satisfactory answer from Lynne by the time you get this - you said you thought you'd hear from her tomorrow - I would like you to phone her and tell her that if you do not have their agreement on the counsel fees, the 40,001 pages and the worksheets and other processing records relating to the entire JFK release by noon on Friday the 3rd I've asked you to file promptly. I do.

There is more ~~chance~~ chance of almost anything you can think of than that they'll do as Figley seemed to threaten, come her and try to retrieve the 1/18 records. But I don't like the threat and I would welcome the attempt. Pray they do it!

These people just can't adjust to what we do to them. To now we've had one loser only, the transcript case. (Reminds me, you did not tell me all that is in the New Times piece. Epstein did have access to Nosenko. How do you think that will look in court after all the CIA has claimed, especially about defectors?) They did not like what Gesell said. There is more they are not going to like.

So let us stick to what meets one basic criteria - what should be a cinch. This way we'll keep them in their present discombobulated state. That is better than letting them straighten out because straightening out for them means getting ever dirtier.

I think your fees and the 40,001 pages are as close to certainties as we can expect. It is because I was uncertain about their capacities for learning that I asked you not to spell out the position in which they are on the 40,001 pages. They can't avoid giving them to me based on what Figley said to Gesell. This is the basis for Gesell's limiting to the second batch - Figley's hokus-pokus on they would comply with my requests from the second batch. Under those circumstances Gesell's was a correct decision. But that is false and knowingly false. I think this in a court record, whether or not before Gesell, will not make him happy. And I think you will have great fun if they then force to a hearing by reading off each of those two dozen requests and asking - hopeful Figley who so told Gesell - where it is complied with in those 60,000 pages. (There was no affidavit - merely his word. And who can question an affidavit?)

Don't rush on buying the transcript but please do see if they have bought it. If they have then we can go over it and prepare. If we can save a buck a page we should.

There is no way they can get in my house without some kind of court authority. Let them seem it. What can they do, say they changed their minds? That I stole it? That the judge was nuts? So your fees are certain.

Now on the others those Field Offices that have not replied, simple complaints. I think all you need is a paragraph and a xerox of the request. You draft one and you've drafted them all. But appeal those that have responded where we believe they have records. Despite everything, Savannah will throw them. They'll never figure how Savannah could be wrong. It is going to hurt them in other ways once a certain person finds out they lied. He'll holler in court and he gets some coverage, my alleged co-conspirator does.

Any time you want to you can expand this to a number of individual Divisions, like Civil and Criminal. Maybe a good course would be to do the field offices as soon as you can, give them a little time to realize what is going to happen to them, and then lay one or two of the others on if they do not straighten out. By then you can go with the field offices you had to appeal. For them I'd hope the same complaint will do. I don't think we have to prove in the complaint any more than the request. So let them worry about what we know and save yourself work. At some point if we have to specify we will.

If those on the lower level need some propping up this should give it to them.

Somebody is going to do some counting and will see all those totally unnecessary suits for which there is no excuse. And it won't look good in Congress, to which false representations have been made,

Except that we don't have the time the situation is now very good for us if we do it this way. I really recommend the one call only and no more conferences. Tell them straight out the conferences do no good, they don't listen, so why waste time? We'll use that time in court. Or getting ready.

It will make one hell of a record in court and I suspect the judges will get really angry with them.

The reason I picked noon rather than the end of the working day for next Friday is so that you can call me and I can have a little time to prepare anything you might need or I might want to send to you in time to make Saturday's mail. I will not figure on being able to drive to the post office. I'm sure that as of now my lane is all ice and 6 inches thick in some places. So I'll take no chances. And over the years I have observed that when we get the kind of weather we've had recently it tends to repeat itself in cycles of a week.

Besides, Friday is my mother's birthday. When she was a little girl her parents brought her to this country to get her away from governments that behave this way.

I want those 40,001 pages soon because not having them now has already made extra work and I have an internship idea to discuss with you when we have time.

They've got trouble and they are making more troubles for themselves. You are going to see more in the Gesell transcript that I think you do. There are records in the first 40,001 pages that we should have had in 75-226 and did not get. Now as I told you long ago it is out about the Nosenko interview. I'd like to send that story to Judge Robinson when I get it. So they have been behaving pretty badly before judges, too.

I don't think any of this will hurt in 1996.

I do think it will help much the next time they try to gut the Act.

Best,