

Mr. Allen H. McCright, Chief
FOIA/PA Branch
FBI

Rt. 12, Frederick, Md. 21701
3/8/76

Washington, D.C. 20535 Re: 62,054

Dear Mr. McCright,

It certainly was thoughtful of you to write me after a mere three months (to the day, that is) and to include a precious non-sequitur:

"We have a large number of requests similar to yours. In view of this, some delay in making a final response to your request may be anticipated."

If you had not explained it I might have concluded that three months was already "some delay."

However, I'd appreciate an explanation of your explanation. My mind is limited by an inability to think FBI/FOIA-PA. I therefore see no connection between the number of requests (which I note you do not describe as identical) and delay. (You later call it "unavoidable delay. If you can find time I'd like to know why it could not be avoided.)

If I were to take your letter literally, as experience has taught me not to do with FBI FOIA letters, I'd be please to know of "a large number of requests" for the records relating to the release of the released JFK assassination records all written prior to the first of these releases.

If I were to take FBI FOIA letters literally I'd expect that my letter of three months ago and the requests in it were responded to in order of receipt. This is what your Branch and the Department have sworn to with some frequency.

You ask me to "be assured that we are making every effort to process your request promptly." I would like to be able to accept this assurance. Perhaps an explanation of the reasons for this "unavoidable delay" could help both my "patience and understanding." If not my patience, surely my understanding. A good beginning point might be an explanation of the "unavoidable delay" in doing what is required if you cannot comply within the statutory time, explain before the allotted time expires.

If you had perhaps I'd not have filed C.A. 70-0249 a month ago. Or to put this another way, after more than five times the time permitted for response.

While you are making explanations, if you do, you might want to remember that when you did not respond my counsel asked for additional information under date of January 28. A month later you provided something less than a response, after this instant cause had been filed. A less charitable person might believe that you provided no information at all. You did provide but a single record and it does not provide the information requested, but it is a fact that it was a record and it was provided.

I have come to appreciate that to the FBI statistics provides what it regards as an answer to all questions. Whether as a palliative or a soporific statistics is the FBI's way of saying it did a thorough job. Thus in the King assassination, a subject in which I have considerable interests, as I believe you are aware, I am to believe (and all the world with me) that it is of no consequence that the FBI, to cite a convenient illustration, did not swab the barrel of the rifle allegedly used to kill Dr. King, to determine whether or not it had been fired recently. Nor did it obtain specimens for comparison by test firing. Not that it did not in the end fire that rifle. Was it not enough that it swabbed the barrel of the rifle it had already established could not have been fired to determine, if you will excuse the expression, whether or not it had been fired recently. The answer lies in the statistics. These tabulate all the man-hours, paid and unpaid, spent in investigating every known irrelevancy, every nut communication, even all the reports known in advance to be false and baseless.

If I am not impressed by the factual information that I have been able to read I must confess that the efficacy of your soporific is overwhelming. It is a modern marvel of FBI police science. Have you thought of withholding it in the future under the claim of (b)(7)(h)?

The question my counsel asked, in your own formulation, has to do with "detailing the expenditure of more than \$180,000 in processing costs." If your counsel did not inform you the judge expressed an interest in knowing the actual costs in my C...77-2155. As of 1/16/83 your counsel was not able to provide this information.

The memorandum you provided does not as I understand the word "detail" how the sum was reached. This was a departure from the FBI's statistical approach. It in fact contains no statistics. It does say that the factors included took into account "machine rental" for the copiers.

If you rented any extra machines for that copying the memo does not so state. If the rental of the existing machines is paid even if these machines are not used for a single copy that also is not indicated. And if a large number is the minimum number of copies prior to any added charge for copies thereafter, this also is not indicated.

Finally, from my prior experiences I'd have expected more explicit statistics from the FBI's compiler of statistics. I would not, however, have expected the requested records, those required for the preparation of this one sent me through my counsel. To have responded simply and straightforwardly would diminish the man-hours required and thus the entire thrust of the statistics operation.

One cost factor not included, this memo specifies, is "the additional processing that will be necessary as a result of the approximately 60 requests of various scope..." for those or some of those records.

Because you are as thoughtful and considerate as I noted in responding, if I may call your letter that, in a mere three months, I would like to extend some consideration to you. Your counsel gave diametrically opposite assurances to the judge in C.A.77-2155. I do not have the transcript therefore cannot give it to you verbatim. But I assure you the representation I give you is correct.

This memo does not say so but close to half of those 60 requests are from me, going back a decade and a little more in some cases. Would you be kind enough to let me know when I may expect my part of this "additional processing that will be necessary?" On a chronological basis, I presume.

In refusing to request for "any document listing or summarizing FOIA requests for materials on President Kennedy's Assassination," you cite (b)(6), "materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

I had some concern for my "personal privacy." I also regarded FBI fabrications about me as "clearly unwarranted." When I obtained a few of these records from your branch I wrote and provided corrections, including records I had not been provided. I received no response. Thereafter, and prior to my December 6 letter, my counsel also wrote and pointed out that I do have rights, including under the Privacy Act. If he received any response I am not aware of it. But I am aware of the disclosure of "a clearly unwarranted invasion of personal privacy," my wife's and mine, from the voluntary (by the FBI) disclosure of its fabrications and distortions ~~as~~ unquestioned fact.

So if you would please add one more explanation I'd like very much to know how there is a "clearly unwarranted invasion of personal privacy" in providing me with "any document listing or summarizing FOIA requests" and is not in what you have released about me without having responded to my letters or that of my counsel. Privacy for a list but not for two people. Having neither a law degree nor an FBI education I do not understand this.

Sincerely, Samuel Weisberg

HW 3/18/78

I have just received these and have skimmed them, without comparing them with the language or text of the complaint.

I recognize that there are some stereotypes, some stilted formalities that are engaged in and are accepted. However, I believe that in this case they can be ridiculed effectively, how effectively depending on what kind of judge Oberdorfer is.

It seems to me that there ought be a good chance these people will comply prior to the status call. The matter is before Shea, he said, and he is considering it. He favors it, more or less. He now knows that in the King case they have given me worksheets. They have also given me records relating to the processing of what records were released in earlier case. From these alone I do not see where they have a leg to stand on.

So I raise the question of making some kind of response in which we inform the court that there is nothing unusual about either the request for or the supplying of the records sought.

If we do this effectively I think it will expose the spuriousness of the entire thing and perhaps lead to some criticisms for the non-compliance that can be useful in other cases.

The claim that the court lacks jurisdiction under (a)(4)(B) is bewildering, even if a stereotype. It is the provision that bestows jurisdiction on the district court. I think the rest of 4 is also helpful.

If it time to make representations about the claim to false and inapplicable defenses just to waste the two of us? Like "The Complaint fails to state a claim upon which relief can be granted."

If this means by the court it can order the providing of the records sought. The Act is for this purpose. And they do not claim that what I seek is not "records" or public information under the Act. There Exhibit 2 says as much.