

Dear Jim,

6/19/83

As I indicated when we spoke yesterday, I believe it is essential that we not only make a point of the FBI's false swearing and dependence on knowingly incompetent attestations in 0322/0420 but that we do this in the most dramatic and straightforward possible way. Given the case record, I believe that citation of case law is not important, can be a distraction and weakening of what needs to be said, and that we ought ignore it for simplification and pointedness - which can be even more important if there is an appeal.

With regard to the FBI's dependence on knowingly incompetent attestations, some ridicule also is appropriate. The Department of Justice certainly knows the requirements of competent attestations yet it persisted throughout in providing only incompetent attestation, even after, during the pendency of this litigation, the appeals court underscored the requirements (Londrigan?) And even after I pointed out not only incompetence but identified those who are competent (with the FBI persisting in withholding the name of Udo H. Specht, in Dallas, the case agent there now).

Truthfulness and untruthfulness are so basic in any litigation that one who alleges untruthfulness is entitled to a judicial determination of fact. Without it he is denied his most basic rights before any court and without it the court allies not only itself but the entire judicial system and its integrity. Inherently this is a lecture and a challenge to Smith, and while it need not be exaggerated at this point it also ought not be sullied or hidden. We simply must confront him and the FBI/DJ with this, strongly and without any compromise and in such form that it is central in any appeal. The record in this case defies what the links did in the spectro case.

If you have any reluctance in doing this in your own name, please state that I have asked you to do this from my strong belief that comes from many years of personal observation and experience.

This kind of approach has the added advantage of taking least of your time. It becomes a simply and relatively short essay on which you have to spend no time at all on law books or decisions.

If you'd like - and while I believe that it is politically correct and a good thing, it is not essential - the question of official untruthfulness is even more significant in FOIA litigation in which the record and records of the government are at issue and the government can have motive for dishonesty.

As I said, we should ask for his decision in a form that either side can appeal, and if he refuses, mandamus him, regardless of the usual odds on mandamus, so that the question can go up on appeal in that restricted form.

You may find that the DJ and FBI will then be willing to wipe this case out under conditions I can accept rather than face what they will then face. That kind of situation also is the kind that can attract media attention, it is that unusual and that basic.

At the very least, the case record shows that I have challenged each and every attestation the FBI filed and almost without exception there is not even a pro forma attempt to refute me. Phillips' belated "I did not lie neither, and nobody else did," ought be ridiculed hard. He even ~~insisted~~ insisted on lying about giving me photostats when they never have and never do and he knows it. (If there is ever a hearing at which he testifies, insist that he bring a photostat of anything at all made on an FBI photostat machine and dramatize this lie and its purposes.)

One of the purposes served by this permeating lying is to hide the fact that after more than five years the FBI still has not made searches required by and

responsive to my requests. I think this is important for the appeals court.

With regard to LeHaie's absolute refusal to have any compliance with my Rommie
aire requests, which is entirely duplicated in this litigation, I'll be writing you
separately about that because in order to save you time I'll also be including copies
of what I sent you under date of 6/14/79, a lengthy, detailed and fully documented
appeal that points up beautifully the spuriousness of their discovery demand and its
real purposes. Le Haie has done us a real favor, and perhaps you'll have occasion
to convey my deep and sincere thanks to him?

While some of the enclosures will be unclear when I make those copies, where
they are not their content is not essential but the fact of the existence of these
records, like my DJ-118 form, with check, is established/ These are unclear
because the copies provided by the FBI are unclear.

Best,

