

Whitten

Dear Les,

8/29/84

The enclosed affidavit is what I referred to in a note suggesting a possible followup. A followup could be of great usefulness in the rushed effort to amend the ~~XXX~~ FOIA to exempt ^{the} "operational" files from the Act. ^{The} ACLU is deceiving itself into believing that a) the records that would be exempt are never provided and do not amount to much and b) this will speed CIA compliance with FOIA up. Neither is true. The practical effect will be to give the CIA total immunity. While I've not followed the efforts to amend closely, to the best of my knowledge none of those opposing the amendment have said a word about the certain effect, now that regardless of the law which is to the contrary, precluding domestic operations, Reagan has issued an executive order telling them to engage in domestic dirtyworks. The net effect will be a total immunity bath for all domestic CIA activity, that of the past, the present and the future. I think it is inevitable that this will reduce the slight concern they may have had ^d encourage still more excesses. It is police states.

Because I wanted to get it to Jim Lesar as fast as possible I've not revised and cut the affidavit. But I think it is comprehensible, well enough documented and exposes them. This is not an isolated instance of what I regard as perjury, not an isolated stonewalling. It is typical of what the CIA and FBI and perhaps others have done to escalate the costs of all parties. ^{These} kinds of costs are ruinous to the average person. Most who seek information cannot begin to pay such costs, so the lawyer has to be dedicated and willing to work without pay, and very long hours. On the governments side, they first force litigation when it is not necessary. None of my many cases need have gone to court. In all instances the government left me no choice. And I never struck a dry well. So, they have all these costs, carefully tabulated, all the time they've wasted, carefully tabulation, ^{ed} and they weep on the Congress how much FOIA costs the taxpayer. Mostly costs they set out to create. I'm sure they've wasted ~~more than~~ millions on me alone.

Jack and you ought to be amused at having what you published classified as a national security secret, which is Exemption (b)(1); is "specifically exempted from disclosure by statute (b)(3); and is "predecisional," or an inter- or intra-agency record that would not be disclosed on discovery (b)(5): I think that ~~the~~ alone could make a delicious column!

I'm not enclosing those pages of the CIA ID's report. You have them. Having ~~them~~ a new look at them, I believe that the look to you was of pages that had already been processed for FOIA disclosure. Some of the excisions would not ordinarily have been withheld from the Congress, for example, WH, for Western Hemisphere Division. (Public since the Watergate hearings in any event. Remember the flap over the note, "WH flap," mistaken for White House flap?)

Paul Koch, the plaintiff, is a PhD (physics), Berkeley, Ca. Jim and probably Bud represent him.

Now, for your concerns about me and the cellar stairs: I did this draft in less than four hours, including searching time, with but a single trip to the cellar. All the other records were in my office. My wife is retyping it while I write you, Jim and others.

Best wishes,