

Dear Jim, Re Dallas FO files

7/1/78

In this I will be less informative and less specific than I can easily be in the event you opt to give a copy to Dan Metcalfe. I think it would be a good idea. I'll probably send a copy to the Shea office with the request that they add it to the appeals I've already filed.

As soon as I could I dropped all work and started going over these files. By volume I've gone over about a quarter of them.

For the most part the niggling, harassing and both unnecessary and unupportable withholdings have stopped. Not totally. One new gadget is using 7D rather than 7C, I suppose because someone thinks a judge may question it less. But these are few cases and possibly limited to one analyst. I've not looked for this and I've not checked. My interest is not in building files to clobber them with in court. It is in using the records as I intended in making the requests.

However, the withholdings have shifted from retail to wholesale. I detected this from McCreight's letter and filed an immediate appeal. I don't want this to drag on as 1996 has and I'm not going to be as patient as I was in it.

I'm disappointed at what has happened because this time you and I went to see Metcalfe in advance and told him what we would not be able to accept. I was pretty specific in saying that withholding a record from a field office and indicating on the worksheet that it was provided from HQ files. For all practical purposes this amounts to withholding public information. The records are not identical and there is no way of knowing what HQ record relates to what worksheet entry. Maybe some can be doxed out but that ought not be and it is a sure way of introducing unnecessary error.

I don't know what caused the FBI, if for some reason withholding the FO copies was important to its ulterior purposes, to be as unreasonable as it has been. For example, instead of writing in "previously processed" they could have written in the HQ ID. In not one case have they. Have you any notion how many Dallas records of any given day fir their general identical of a teletype or an airtel?

Besides, the other notations have informational value to me and to others and it is not up to the FBI or its counsel to make any such determination for me. They may be able to claim an exemption but they can't properly withhold information. Now Metcalfe can believe me or not or perhaps he may prefer to believe whatever the FBI may have told him but I'm telling you that there is absolutely no doubt in my mind that if this gets litigated there will be no plethora of proof. There will also be much greater cost than doing as I asked to begin with could possibly have cost.

(I think their real reason they didn't is because they were afraid I'd sit down and paw over records to compare them just to embarrass the FBI. They are paranoid ~~xxxx~~ and prejudiced enough to believe this. I've never done that except when they tried real dirty stuff. That is not the way I want to spend my time. I know they withheld unjustifiably in HQ files and if they force me to try to do something about that I will.)

I think you should alert Metcalfe to this and what it means in costs if it is litigated and they do not prevail. Actually, even if they do, because they gain nothing if they win that does not cost more than being mean with me could be worth to them. If they do not straighten this out I will want to litigate it, as I told him three months ago after my 1996 experiences. So he knew. What I do not know is any real reason to withhold records that are not totally identical just because they claim to have provided an unidentical copy. They know very well that in a case of this kind, even if one knew the document "previously processed, there is little real opportunity to take the time to dig through other files to locate it.

If Metcalfe doesn't know then the FBI did know that there was no way of doing what it represented it was doing with the 12/7/77 and 1/18/78 releases without including the files of what in that case were the major field offices.

For whatever my belief is worth it is that they will not prevail on the administrative appeal level. And that if anyone ever does a cost accounting job on their indulgences because they have things to hide and because they do not like me some of them may have real problems to face.

There were a few cases of blackings out without any claim to any exemption. But it does not require many to make a case, does it? There were some of these that were referred to other agencies. I recall State and Army. (I've not made notes. I'm making copies instead and I can retrieve and provide copies faster this way.) Neither agency has a backlog. The processing was in May. We are not entering July. More than enough time and of course more that the statutory time has passed. With classified record the DJ is now required to process them as its own records under the Nat. Sec. Council order. This is stonewalling. Of course if we have to go to court on this the more such stuff the better for me. I think it is silly for them, that they best shot is a decent effort to get it all over with, not to try too much so I might be tempted not to resist.

I thought we had an understanding that they'd not process as such as they did before letting me go over a sample. I know I expected them to involve the Shea office at some point. I suspect they deliberately did not in order once again to complain that undoing what they have done would cost too much, as they did in 1996. (There is no way this in the end will not cost the government more. They are giving in to the FBI, whether the FBI's motive is withholding the embarrassing or vindictiveness or anything else.)

Right now I believe that when I've finished going over what they sent me later than the letter said I'll be adding much more to the foregoing.

You might tell Metcalfe for me that the FBI is not making his look very good in other ways, not in reference to this case. They care naught for him as long as he is willing to do what they want him to do. I didn't give him as much indication in the past as I could have. And I'm not saying what I know here. But I'll say that they have again done other than he has represented to a court. In reference to this case I can await the future and he and we will both have to live with it. In this and future cases I'm not going to take the time I've taken in the past to work things out with people who never keep their word and who then berate me for their failings. So I'm not going to tell him sore - now. In time if I have to, I surely will. But not in a letter.

They have two other parts of the admitted files. My belief is that they would be wise to process them other than by claiming (previously provided." after they have given me all McCreight has written me about I'm sure I'll be specifying enough of what they have not searched and of which I know.

Excuse the haste. I want to try to see if I can fix the trouble with the ribbon mechanism before supper.

Best,