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Why the FBI stonewalling on FOIPA now?

2/26/90

Off and on recently I've wondered why, at my age and when it is aware of the state of my health and the limitations it imposes on what I am able to do and in particular when it knows I am not in a position to file any further lawsuits, it continues not only not complying with my requests + it discloses records that reveal the existence of other and non-exempt records that it persists in continuing to withhold. Even in blatant lying to the appeals office and putting it in the position of lying to me, in writing. This transparent lying is illustrated by the claim that it had no idea what + was writing about when I wrote it and filed an appeal on June 25 from the withholdings in what I got June 24 that records provided later disclose were sent to me June 22, last year. I was specific in identifying the records in question as those I got June 24 and this made unquestionable identification of them.

When it finally did write me, after I wrote the so-called Office of Professional Responsibility, which has a clear record of tolerating anything the FBI does and covering up for it, it <sup>mis</sup>represented the request I made under FOIPA for the identification of the third party to whom records on me had been released when I was not the subject of the FBI's investigatory interest in those records and disclosure of records on me in them appears to be a criminal violation of the Privacy Act. So, it may be safe to assume that its misrepresentation of my request, which literally was for copies of the third-party's requests, was to either con OPR or to give it a figleaf. However, the FBI knows me well enough to have assumed that I would detect and make an issue of that, as I did, immediately.

In doing this the FBI also knew that Congressman Don Edwards plans to hold hearings and that there recently was public complaint from another subcommittee member to whom I've written, Congressman Wise. Whatever the odds for or against Congressional interest in this, and if the prospects of Congressional interest may be slim, why did the FBI do what could embarrass itz-what benefit to it could it see or what ulterior purpose could it hope to accomplish that was more important to it than what it could suffer if there were to be public exposure?

On the face, it makes no sense at all. Take as an example the statement the FBI asked me to sign 50 years ago in the Mayne case and I refused to sign. That it had prepared the statement and I had signed it, is disclosed in the records appealed. So also is the fact that when the statement was corrected and made accurate I did sign it. The statement I did sign is also withheld. Neither is subject to any withholding. Or the withholding of what it certainly has, the news stories on the Mayne case, including his indictment and his copping of a plea through Martin Dies, who did it publicly. There is no apparent purpose in not disclosing them. There is little or no prospect of disclosure of the two statements causing the FBI any embarrassment, unless there are related records of which I do not know that can be embarrassing. But there is little likelihood that they are noted on the originals of the two statements. It is more likely that any notations were separate and thus easily ignored. Or claim to exemption to withhold them could be made.

What makes it even more difficult to assign a reasonable explanation is that although my prospects of filing a lawsuit are to the FBI's knowledge quite slim, the record is one that could appeal to a lawyer because there is, even before a fink judge, virtually no chance that I would lose and that would make a record that could be used against the FBI in hearings even if it got no public attention in court. These comments are really conservative and apply also to the redactions in some of the records provided, although by themselves they are not exciting.

An obvious reason is the FBI's decades-long policy of stonewalling me, a general policy that it persisted in even in the Senate 1977 hearings. When it got no attention.

Another possible explanation is vengeance, for what I have done to it in general, which includes what it did to itself and can attribute to me, like the basis for the 1974 amending of the investigatory files exemption.

~~record~~ Still another, and from my experiences with it one I am inclined to credit, is the

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record I made of SA John Phillips perjury, in which I charged and proved perjury before both the district and appeals courts. Yet it knows that this could become a serious embarrassment if there is any attention to the present situation, either in the press, which ordinarily would not be likely, or before the Congress, which is to hold hearings.

That Moschella wrote me as he did can be interpreted as done with the expectation of confusing OIP and OPR or of giving them a basis for ignoring the record they and I have made in this. Yet that risks causing either component serious embarrassment if there were to be any attention. The FBI also should assume that I would come back to both OIP and OPR with what I did file and thus there can't be any confusion. Instead it had to assume that my response could give either or both components problems that include serious embarrassment with any attention at all.

Still another motive could be to delay until the third party still not identified can make use of the disclosed records to embarrass me. It may know that someone plans to make public use of the improperly disclosed records, either by misrepresentation of the past or by falsely connecting me with the Silvermaster case.

Whatever may explain this, it is abnormal. It would not be any real work at all to comply with my request for the requests by the third party(s). Or to provide copies of those records that are identified in what it did disclose.

On the face, this all appears to be senseless. I can't assign a rational reason.

I am not, without checking them, certain of the degree to which this, more or less, can apply to the Nosenko records it disclosed to Mark Allen 2/5/90 and did not send me. I did write Moschella about this 2/16, without response, but it generally does not respond within the elapsed time. But it does continue to withhold other Nosenko records the withholding of which I did appeal and about which I did write the FBI, without response. This extends even to what it did disclose to another, the "Fedora" story. It got wide attention.