

Mr. Quin Shea, Director
Office of FOIS/PA Appeals
Department of Justice
Washington, D.C. 20530

4/25/79

Dear Mr. Shea,

This relates to both the King and JFK cases and to your testimony in C.A.75-1996 and your failure to act on my appeals in that case after from months to years.

In the course of reading and checking some JFK records last night in 62-109060 Section 181 I came to Serial 7363, a copy of which is attached. I also attach copies of pages 468-481 of my book on the King Assassination, Frame-Up: The Martin Luther King-James Earl Ray Case.

From this it is apparent that as of today the Department and the FBI is withholding what I wrote about more than a decade ago.

It also is apparent that there was neither basis nor need for the withholding, that as I have stated over and over again, the Department and the FBI are misusing FOIA to waste what remains of my life to prevent my writing which they do not like.

In this case it is less justifiable and I believe is outrageous and contemptuous because of what happened in court in C.A.75-1996 last year. You will recall the Beckwith affidavit that includes an alleged response on this Somerset/Milteer matter when the Court ordered a belated FBI response to a memo provided to the Civil Division by a college student who had reviewed some of my letters on non-compliance to which the FBI had made no response. I proved the Beckwith affidavit was falsely sworn, informed the Court of his unfortunate personal situation as an unindicted co-conspirator and displayed to the Court several volumes of Milteer/Somerset records that had been provided to another and later requesters who is a writer friend of mine.

That was last year.

The response of Government counsel was not to see to it that years late, long after my appeal and providing of proof that the withheld information was within the public domain, there would be belated compliance. Instead Government counsel seized upon this for another stonewalling and another wasting of more months of what remains of my life and a further impediment to my writing by filing a motion to expunge the truth from the record.

Meanwhile, this is one of the countless specifics on my many appeals to which you have not responded, in court or out and on which you have not acted. Thus it is that on the night of 4/24/79 I can learn that what I first published in 1967 in a book completed in early April of that year is today withheld by the FBI and the Department in both King and JFK cases and this long after I have appealed precisely this withholding in both cases.

It literally is more than 12 years since I mailed the manuscript of that book to my then agent, and it was intercepted in the mails then and once thereafter.

Obviously I have no personal need for the withheld information when I published it. Also obviously I have made this appeal in the public role in which the Department, the FBI and the Courts have forced me. What interests me personally is the other withheld information some of which was released to the other requester, whose copies I had borrowed to display to the Court. But even in this I am in a public rather than a private role because it would not have been possible for me to write about it no matter how long I live.

I find myself wondering about the reality of the appeals machinery when this can happen - when literally 12 years after it was public domain I find claim to exemption under FOIA and for nothing that the FBI and the Department had not already released, I emphasize released before there was any FOIA. The facsimiles in my book are of records that were never withheld in the Archives and were released by the FBI and the Department to the Archives to release to any requester.

This matter has been before you for a year or more. I notified the FBI that it was withholding what is ~~with~~in the public domain as I now recall the end of 1976, which is quite long ago in FOIA terms.

If you will read the third page of the attached Serial you will see that the FBI originally intended to withhold the word "informant" without any name attached as well as the name of the subject - and at the precise point where publication in the Miami paper is cited.

In the JFK case this is one of a series of records relating to a report that the FBI had alerted its offices to threats against the President. The FBI denies it, resorting as usual to semantics. The Milteer threat is only one of a number of precisely that period that I published more than a decade ago, from available official records. To be able to deceive and mislead the Attorney General, as it did do, the FBI cited only the published records of the Warren Commission and by this means ignored the fact that ~~it~~ it had already released proofs of actual and officially reported threats against the President. The Milteer threat differed in also being a threat against Dr. King and in an actual forecast of what really happened in both cases from the official explanations of both crimes. Considerations of space compelled the editing out of Frame-Up of the other threats but I can provide them from that manuscript if the Department ever wants to escape from FBI captivity.

The Department forced a consultancy on me, as you know, stated that this was necessary to the Court in order to have the Court have me act as the Department's consultant in my case against it, stated that it would pay me, then ignored my lengthy consultancy memo and refused to pay me. To this day, including in your testimony, I have had no response to that memo. I did give you a copy of it as part of my appeal. I am not aware that you have addressed it in any way, including in your testimony, which was essentially of generalities. While I do not recall whether or not I illustrated by this case in the memo I wrote after reading your testimony, when I could not be present in court and when my counsel was fore-

closed from cross-examining you, I do know it is in the student's earlier memo and in some detail in my consultancy memo. I have also discussed this with you and I believe provided you with other information relating to the entire matter. That even earlier specifics of proof of non-compliance were provided to the FBI is certain because the student's memo is based on carbons of some of my letters to the FBI in which I proved non-compliance to it.

Meanwhile, if you can wrench your mind far back to the very beginnings of this long case, I appealed the denial of the actual information I actually requested and you have not acted on that. After three years.

In terms of the Department's substitution for my request I also have a long over-due appeal. It is for the reprocessing of the records provided, which is to say provided in substitution for my request.

Toward the end of Operation Onslaught the FBI made one of its many unkept promises, that it would reprocess those records processed in that period and by Onslaught agents. Once it had misled me by this promise and gotten away with it the FBI continued processing records, with the practise of the same abuses, continued to ignore the finding that this was an historical case, and having processed all of them first refused to reprocess and then claimed that having processed wrongly it would be too costly to process correctly.

You have not acted on my appeal. I am asking that you act on it immediately.

I do not intend to appear to be making a peremptory demand and with all the time that has passed I believe I am not. But last Friday something happened that requires me to ask this - as under the Act I should not have to ask it.

As you know I have venous and arterial blockages and have been living on a high level of anti-coagulant, intended to deter if not prevent other circulatory obstructions from forming. My doctors have informed me from the first of the hazard from the medication, which is actually an animal poison, intended to kill, and from both the high level I have required and the length of time I have been living on it. The danger is from internal bleeding. Last Friday I passed fluid that was the color of blood. The medication was discontinued and that day and the next I was given injections that appear to have ended the bleeding. I also have an expert consultation a week from today.

Were this not the medical reality I am 66 years old and my actual requests were first made more than a decade ago - under a 10-day law and a 20-day appeals period.

So I believe it is not unreasonable for me to ask that you act now on all my appeals in both cases. Up or down, so more of my life or what remains of it will not be wasted. It is, after all, three years since I first appealed to you.

The delay alone makes a mockery of the appeals machinery. In these cases I have gone to what I believe are extraordinary lengths to inform the FBI and you, both, as well as Civil, which made the false pretense of wanting to be informed and then refusing to pay any attention to unrefuted, even undenied information. ~~It has been my hope that you would consider this~~

I have provided multitudinous copies to provide proofs, for me not inconsiderable costs in time and money. Yet it all has been to no point merely because the FBI is determined not to comply, Civil Division presides over the non-compliance, you do not act on my ~~re~~ appeals and when called on to testify testify in generalities when my appeals are in unaddressed specifics - literally hundreds of illuminated pages of them.

I have done this despite the fact that the burden of proof is on the Government, not me. I have gone much farther and offered to be available at any time to assist in compliance because I am a subject expert.

For perhaps a year you have been supposed to provide affidavits and for calendar call after calendar call Government counsel promised them momentarily. I do not have them yet. Will you please inform me promptly if and when I can expect them? The Government has been supposed to file a Motion for Partial Summary Judgement for more than a year. In fact it first made this claim at the first calendar call in the case. As I now recall at each calendar call the motion was not filed because the affidavits had not been prepared. More than enough time has passed for the Government to have kept its word and for you to have prepared and provided the affidavits and those based on which you would provide your own affidavit.

I repeat again my belief that the actual purpose of these long delays and unkept promises is to waste what remains of my life and preclude my writing which the Department and the FBI do not like.

Meanwhile, there are material facts in dispute, as there have been from the first. As I understand it these overdue affidavits are to address these material facts in dispute. That is one issue, relating only to the records provided in substitution for my actual request. There remains my actual request, which has not been complied with and I repeat I appealed. I am therefore re-iterating my request that you act on my old appeal, the denial of the information I did request. In an earlier calendar call the judge held this to amount to a request for "all" information relating to the assassination of Dr. King. If Department counsel did not provide you with that transcript and if the staffing you have does not enable you to obtain a copy let me know and I'll just have to assume that burden that under the Act I should not have to assume. Otherwise this case will never end because I simply will not accept non-compliance.

Because of this abrupt and possibly quite dangerous change in my health situation and because I regard this newest manifestation of contempt in the Somerset-Miltear matter as close to incredible - and entirely intolerable - I write you promptly and ~~ask~~ ask that you inform me promptly so I may be guided accordingly in both cases. If nothing is going to happen when I appeal, to what end is there appeals machinery and for what purpose do I spend the time providing detailed and documented appeals?

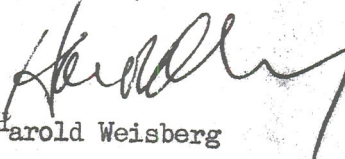
In this connection I believe it would be a good idea if someone in authority in the Department would reread the Department's testimony relating to me and my requests when the Senate subcommittee asked about them.

The Senate was given false assurances.

The promises made have not been kept. I believe it was never intended that they be kept. The record supports only this belief, that much time has passed and only last night I come to such a thing as this attached Somerset^m-filter withholding^m and I am reminded about the Beckwith affidavit and the failure of everyone to relieve that false swearing or provide the withheld records.

Unless deception of the Senate as well as of the Courts is Department policy I believe someone in authority in the Department ought inquire into these and related matters.

Sincerely,



Harold Weisberg

P.S.

(slip sheet in Frame-Up)

With regard to the Somersett/Milteer page originally withheld I have since obtained it. It says exactly what I said it says and there was no basis for withholding it at the time it was withheld because all the information was readily available. How else could I have published what was withheld? My book cites the public domain source.

This was one of my FOIA requests not responded to to which I testified in C.A. 75-1996. A year after the Archives made it available, for which I paid the Archives, the FBI sent me the entire volume, for which I also paid the FBI.

Whatever caused the recent processors to withhold the public domain the original withholding was to protect the FBI from embarrassment, an embarrassment it sought to hide by generating false paper to cover it. The Milteer threat was reported to the FBI not only by Somersett, as the records withholding his name disclose. It was reported to both the FBI and the Secret Service by Miami authorities. Then the President's motorcade in Miami was cancelled three days before he was killed. The FBI seeks to cover this and to non-subject experts, which include the Director and the Attorney General, got away with covering it, by making a big deal about the totally irrelevant, the President's appearance at Tampa.

If you want copies of those records or if anyone in the Department does I'll take the time to provide them.

Please excuse the haste. I want to get this in today's mail. I do not apologize for any anger or disappointment that may show. I think this entire matter is a disgrace to the public service, an abuse of the Court and a deliberate imposition on me and is part of the long-standing effort to deny me the opportunity to write what the Department and the FBI do not want me to be able to write.