

0322- Chifus

Dear Jim,

6/30/60

If the FBI does as Ben Nease's promises it will do in his letter of 6/26; if as he says "the administrative appeal process for all Dallas and New Orleans records should now be a very active one;" and if the enormous overdue Dallas index is provided "in advance of the next status call" (which means no more than a day or two before it); and if all the cross-references for the improperly withheld field office records are "completed within approximately 1-2 months" (with Dallas the admitted error was of about 2,500 pages, without reference to any referrals); we will all face an impossible situation and it will be impossible for Nease to keep his word to the Court and to us. I believe he should be informed of this immediately. I explain.

I asked you to ask that we not face a situation in which all that has been withheld for so long, assuming all is provided by then, not be dumped on us at a time that makes my review of all of it impossible before the status call that at his request was set for six months later. His letter does not provide that assurance.

His letter reflects a lack of understanding of the realities. If as I do I assume his innocence in this and do not attribute any improper motive or intent to him, I state the reality and will explain it also below.

While I have no objection to his covering up for his client, as he does in his letter, I believe the record should be clear and unequivocal for the next status call, so that there will not be any question when we face the situation I anticipate and so that it will be clear to the Court.

The FBI has been stonewalling. It gave its word and it did not keep it. The situation with regard to the Dallas index is not merely one of compliance being "far slower than had been expected" not does it mean anything any to say that "any substantive objections to omissions made in the Dallas index cards <sup>already released</sup> should be considered by" the appeals office.

Compliance is not merely far slower than expected. The entire index was to have been provided long ago, perhaps as just as a year ago. My appeals, which were prompt, have been without response and I was never told when any additional part might be expected.

An agreement was reached. The FBI did not keep its word and did not once inform me

that it would not or could not or that it had any special problems it could not articulate or even when to expect any additional sections of it - as of today. There were no special problems. The FBI wanted to circumvent me and I did that.

With regard to consideration by the appeals office, while I agree that objections to material in the copies of records provided "should be considered by" it, the fact is that they have not been. It also has not informed me when they will be and it is already too late for this to be meaningful and to avoid the certain non-compliance ignoring what I wrote the FBI and its promptly new answer.

As soon as I received the small proportion I did get I wrote the FBI about what I regard as improper withholdings. In part this was so that these problems could be eliminated in the major and unprocessed part of that index, an extraordinarily important record, if not the most important of all in that historical case.

The response of the FBI was to tell me to "Wait it to December." From that time I heard nothing at all, and this was very months ago. This constitutes a repetition of what in my extensive experience is FBI SOP - that all of the records will be improperly processed, including me, after which the FBI will complain about the cost of reprocessing, and there will be that cost of there will be violation of the 4 of and denial of the withheld public information.

The errors in the processing of what I have received have not been corrected. I have not been informed that they will be corrected. I expect that to be replicated in what has not yet been provided. This creates the situation I state above. It presents the Court and me with a fait accompli. We are asked to rubber-stamp deliberate non-compliance.

I therefore would like the record to be contained in clear form in advance, so I ask that someone provide a letter acknowledging the date on which the FBI agreed to provide what it had initially withheld, the index, when it would deliver the entire index, when I informed it of improper processing, and what, if anything, it then did.

There is a starter index, known as the non-accusatory index. It has pages with obligations for which no claim or exemption is made. I informed the FBI of this

promptly, as I did Mr. Shea. As of today I have not received any replacement pages.

Most of the records of the two field offices were withheld as "previously processed" in the FBI's general releases, despite my pleading in O.A. 75-1994, confirmed by the Shea office long before my records were processed in this case, that the two different sets of records are not identical. There is no basis for such withholding. I communicated the FBI and agreed to accept cross-references as a substitute. It was to have provided them promptly. I take it from "Shea's" letter that it has only now, many months late, begun the preparation of these cross-references. Again, I believe that a clear statement of the times involved, as above, should be incorporated in a letter not available for a clear record at the time of the next status call.

Many other serious problems exist. I have reason to believe that they will not be addressed prior to the next status call. In several years they have not been addressed. I have tried to confront all of these as soon as I became aware of them. The Department is aware and it has done nothing at all of which I have been informed - aside from replacing some of the almost 2000 improperly withheld Dallas records which I caught the FBI in not providing cross-references to them.

New Orleans withheld its inventories of pertinent records it was directed to provide FBI. Dallas did not. From the Dallas inventory (only one of several provided) I established that the FBI did not provide copies of all pertinent files. Thereafter it did provide copies of some. Others, like those on the articles, remain withheld and I have had no response to my appeals from these details. My appeals included even file numbers, which I was able to obtain by other means when Dallas did not provide them.

With regard to withheld New Orleans records and files not even searched, I was able to determine the precise identification of some. I provided them. These records have not been searched and no copies have been provided. Again, after a long time, almost two years, I have not had any response to my appeals.

As soon as I received the records that were provided I began to review them. As I reviewed them I provided Shea with detailed and documented appeals. This was greatly

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this concerning and to me surely because in order to attempt to expedite and save Spurr's and the FBI's time in most cases I provided copies of the records involved. I provided these copies as soon as I received any records and thereafter as rapidly as I was able to review them. Despite this they have been virtually ignored.

All Spurr now proposes to do is make a spot check, for which he has asked me to do more work I have declined to do, while offering him what cooperation is possible. If my first Dallas appeals had not been ignored files in the later New Orleans processing could have been avoided, if there had been any desire to avoid them.

I put it this way because in the processing the FBI violated its own policy, a policy it attempted to make work in O.S. 79-1996 and dates at least before the processing of the first record in this case.

Ketola's memo with regard to Dallas and New Orleans administrative appeals that if they are to "not proceed satisfactorily in that or in any other regard, please notify me promptly." Insofar as anything other than an intent to make a spot check has not been communicated to me - and this eliminates all but those records provided, all the files not searched at all - I suggest that you notify him with a copy of this letter.

The FBI has created a situation which makes it impossible for Ketola to keep his word to the Court. Spurr has contributed to this by virtually ignoring all my appeals and the great amount of time I took to run his problems. While it is not impossible for the FBI to stop stonewalling and to search and provide copies of records from the pertinent files it has not yet searched, I do not believe it stonewalled without intending it and do not believe it will end its stonewalling without compulsion. It is now impossible for understaffed Spurr to address all the appeals I have filed, pertaining to specific withholdings. Some weeks ago I wrote him to this effect. He has not responded.

If you send copies of this to those who received a copy of Ketola's letter I would like him and them to understand that my typing can't be any better because I am required to type with my legs horizontal. In order to comply with the request that we notify "immediately" I will have to mail this now, without readings and correcting, or it cannot