

Dear Jim,

~~4/21/80~~ 7/9/80

Because nothing has happened about my appeals and reminds of appeals pertaining to the "bug tickler" I believe that this should be brought to Bill Cole's attention.

Background: In early 1977 I began to ask that the files of the FBI divisions be searched for compliance. The FBI insisted that its divisions had no records of any kind. Having seen so many file cabinets, outside of Central Records, and so many references to records sent to the divisions, I appealed. I received no response. Then a contemporaneous description of the tickler kept by Supervisor Long appeared in OPR records and I appealed its denial. Shea was told it did not exist, then that it could not be located. When he followed leads I gave him he found what remained of it. There was extensive destruction of it after my request and after this case was in court. After I received it, with the FBI's 11/20/78 letter, I appealed denials and withholdings again and have heard nothing since.

MURKIN is a civil rights case. Long was a supervisor in the Civil Rights Unit. His tickler was a control file on the case, perhaps the most important single record in the case. It also represents, among other important things, ^{value} ~~value~~ judgments pertaining to evidence, proof of guilt and perhaps innocence, suggestions of possible conspiracy, information about persons the FBI connected with the case, those Shea refers to as "players," and, although clearly a MURKIN record itself, it held records that were not provided to me from the MURKIN files.

Any compilation of records in so large a case has a separate importance, particularly such a tickler, a case control file. However, the FBI withhold, extensively, without making claim to exemption.

On page three of its letter, referring to Folder 6, Document ¹⁵ 5 is acknowledged to be captioned "Surreptitious Entries." While the FBI states that it "makes no mention of either Dr. King or the investigation of his assassination," this need not mean anything because the FBI also admits that it never investigated the assassination, that it was a fugitive-type investigation. In connection with its fugitive investigation there is indication of ~~lack~~ surreptitious entry and I have HQ instructions (in the case record)

that amount to ordering a surreptitious entry. There also was the actual one in Atlanta, by SA Burgess. This also is in the case record, most recently pertaining to the withheld Atlanta records promised to me^{by} the Director and then withheld.

The FBI informed me that I would hear further after it heard from the Department's Civil Rights Division. I do not recall hearing further about this and a search does not disclose that the record was ever provided.

It is dated 12/2/75 and thus, if it pertains to any of the so-called re-investigations, is within my requests.

Admittedly withheld are copies of records that "would" appear in the MURKIN file. Many records are missing from the MURKIN file, so presuming that they are there does not mean that they are or that they were provided. In another case the FBI has admitted to me that 2369 records it assumed were in a JFK assassination HQ file are not there. Moreover, there is the separate and independent value of a collection of records in subject. There is no such collection in the HQ MURKIN file and there is in the tickler. This is like claiming that an index has no value or need not be provided on the claim that it is duplicative. (By the way, the ticklers are subject indices and the requests have an index item.)

Also admittedly withheld are records "captioned other than MURKIN, copies of which were not placed in the FBIHQ Murkin file." Note that this does not even claim they are not pertinent. Indeed they are - and the word MURKIN does not appear in my requests. The FBI filed parts of its conspiracy investigation separately, not in MURKIN. It filed some of its surveillance records separately, not in MURKIN. These examples are from what remains of the Long tickler that I did receive in part. Other such illustrations appear in King assassination records provided to another requester and not to me - pertinent records neither captioned nor filed under MURKIN.

The entire Long tickler pertained to the King assassinations and thus all records in it are pertinent. The function of the Long tickler makes it such a pertinent record.

On page 2 claim is made to (b)(2). Shea testified that the (b)(2) claim is inappropriate in this case. He was the Department's witness and on this basis no

records or information should be withheld under (b)(2). In those instances in which what had been withheld under (b)(2) was disclosed, the FBI never met the "solely" test.

All of six folders admittedly were withheld (page 3) as either "would" be in MURKIN or not captioned MURKIN. These are all categories of information that is entirely lost in the 20,000 pages. The first two are "Cost Data," especially valuable and important in assessing the functioning of the agency. The FBI has released cost data it did not provide to me from MURKIN and it has not responded to my requests for it. The FBI compiles cost data for special uses.

The other three are collections of records from three Legats, Mexico, Ottawa and Paris, all three of exceptional significance in the fugitive investigation. There is no claim that the information is not pertinent or that it is exempt.

This is not a case in which I ask the FBI to do research and compile such information from the files. It is, rather, a case in which the FBI denies and withholds an existing record it has already compiled for its own purposes. If any check was made by the FBI to determine that these records meet the criteria on which it withheld them it appears that the FBI spent much more time and money to withhold than merely microing and disclosing non-exempt information would have cost.

Folder 14 (page 3) consists of records pertaining to this litigation, withheld under claim to (b)(5). Information pertaining to this litigation was to have been provided under ~~§ 552(e)~~ discovery. What was provided is incomplete. Some of what was not provided might well be in this folder. Moreover, there has been disclosure of such "deliberative" information in this case. Some is embarrassing to the FBI. This claim also was made for information that does not meet (b)(5) standards. Under my appeal this should have been examined to determine whether or not its withhold^{ing} is required.

There is withholding under (b)(2) and (b)(5) of information pertaining to the FBI's "relationship with various Congressional Committees (page 4). Is this a proper (b)(5) claim? An item of my request pertains to all re-investigations and thus all such information is within the request. Moreover, as is undisputed in the case record, the FBI undertook to mislead the Congress and did mislead it. The information may actually be

embarrassing to the FBI and not within any exemption. Moreover, the FBI has disclosed information of this nature, a considerable amount of it where it did not anticipate embarrassment.

* Folder 19 (page 4) is said to pertain to the SCIE. It is not claimed not to be pertinent or within any exemption. It also is within my political request of 1977, reported by Shea to be under processing in 1978 and still not complied with. A considerable amount of SCIE information is disclosed, so there appears to be no basis for any withholding merely because the information pertains to the SCIE.

Reviewing this FBI letter reminds me of the other ticklers still not provided. My appeals pertaining to them were confirmed during the testimony of FBI witnesses on deposition. An example is the tickler of J.C. Loan, and there are others. They are pertinent, they existed at the time this litigation was commenced and no claim to exemption has been made for them.

These are extensive denials and withholdings of significant information, all appealed without response. I therefore believe the matter should be addressed by Gale in accord with his expressed preference.

Sincerely,

* P.S. FOLDER 19 was sent later, 3/16/79.

fb
7/11/80