

Mr. William Schaffer, Ass't Chief  
Civil Division  
Department of Justice  
Washington, D.C.

12/17/77

Dear Bill,

There has been more than enough time for you to have responded to my last letter if you sent it by some of the FBI's tame FOIA snails. That you have not, in my view, bears on the Department's and your personal good faith in this matter of my involuntary servitude all of you imposed upon me by misrepresenting to the judge.

Quite aside from the fact that the Act imposes the burden of proof upon the Department, there is the matter of my compensation. When your silence extended to this I finally wrote you about it. Because of your continued silence I must now insist upon a written contract. To now I have had no cause to take the Department's word. Nothing in recent months justifies my now taking its verbal assurances.

You stipulated the normal consultancy rate. I did not ask what it is. Lynne was not able to tell Jim what it is. If she later inquired, as of last evening Jim was not aware of it when we spoke by phone.

The missing Sections of Memphis Sub G have not arrived. I have had no word about them from the FBI or from anyone in your office in response to my having written you. I remind you that the Department assured the court other than truthfully about this and that only xeroxing was required.

As I have continued the work I have come across a good example of the reason I told you that your interest and mine both required some demonstration of good faith from the FBI and that it was well able to do much of what you have unloaded on me. Jim and I, at our first meeting with you and in subsequent meetings with your associates, have each said that the FBI should review its own worksheets. Jim went into this when we met with Judge Green in camera.

Despite the fairly serious limitations I have observed in the FBI I am without any doubt at all that it is able to read and that this elemental skill does extend to its own worksheets. If it does no more than Jim said, examine its own entries under "Remarks," relating to Section 53 it will find these outside referrals, in each case withholding the relevant records from me:

State- Serial 4144, two Not Recorded Serials after Serial 4152, 4188, 4216.

IRS - two separate records identified as Serial 4147, 4219.

USPO-4234.

If when I read the National Security Council's directive on E.O. 11652 I understood it correctly then after 30 days without response from the agency to which any record was sent the obligation of compliance or withholding under a relevant and enumerated exemption was imposed upon the Department. Over a period of months I have asked about these many records referred to other agencies, especially the CIA. The FBI has refused even to give me a copy of a letter in which it reminded any agency to which it referred as little as a single record.

Of course I am the plaintiff in this case, as I am your consultant. But I am also a taxpayer. In my taxpayer capacity I want to know why it is necessary to waste government money in paying me to review these FBI records it or others on your staff or elsewhere in the Department could and should have reviewed. I am giving you this written record on but one of the more than a hundred Sections about which as your consultant I will be writing you. I believe it is a fair representation, which occurred to me when I was going over my notes, and that despite your record of indifference to what I have sent you I owe you this example.

( With Serial 4193 there is the claim to (b)(5). I can't be certain but in time this appears to coincide with the "Sneyd" identification. I will be raising this (b)(5) question in writing because the many times I have raised it in meetings have not elicited response.)

Earlier and again as your consultant I gave you certain cautions. One related to Congressional interest. What officialdom has done to the Act has generated much fear among those who ~~anxious~~ regard FOIA as a vital part of functioning representative society, as I do. I told you that approaches had been made to me but that I had had nothing to do with them although I believed and believe that I can give testimony in support of the Act as it exists.

Recently I have been asked about this. Unlike the past I have not declined. What has happened to me in this case and is happening to me right now forces me to consider what in the long run will give me most time for the work I want to do. I do not know if I will be asked to testify. I also have not decided whether I will ask to be heard. I have decided that the virtually total public silence on this that I have imposed on myself is over.

In a few months this matter will be a decade old without compliance. It will be a decade old in any event. The Department's course assures there will still not be compliance on the anniversary. What you have asked of me cannot mean there will be compliance, as I believe I have stated from the first.

With these considerations in mind I suggest you consider the meaning of the Department's refusal to go over its own worksheets and its refusal to do anything about the many relevant records they show are withheld and have been for periods of up to more than a year without claim to any of the exemptions of the Act. What I prove<sup>id</sup> here relating to Section 53 is but a drop in the very large bucket of non-compliance, knowing non-compliance.

I will ask my wife to read and correct this and to satisfy herself that it is comprehensible. Despite prior representations and my offer to rephrase whatever it is claimed cannot be understood I have not, as of today, received a single letter back for any clarification.

Sincerely,

Harold Weisberg