

Route 12 - Old Receiver Road
Frederick, Md. 21701

November 25, 1977

Mr. William Schaffer
Assistant Chief, Civil Division
Department of Justice
Washington, D. C. 20530

Dear Bill:

Although on Friday you said you would be at Monday's in camera session with Judge Green, you were not. You also were not present at the subsequent conference in John Dugan's office. So I must let you know that what evolved cannot provide you with all you asked of me at our meeting of 11/11/77. I will do what I was asked to do as rapidly as possible but you should understand that there are limitations to what you can expect of the arrangement and of me under it.

All interests will be served, I believe, by having these matters recorded to assure against misunderstandings or claims of misunderstandings that may be made some time in the future. This may be particularly important because of the government's representations to the judge in camera and because they may have led her to expect too much.

Because I do not look ill and am not crippled, people do not really comprehend that my activities are restricted and that the commonplace can be hazardous for me. This is one of the problems I had in mind when I told you that transportation presents problems to me, thus I could not accept your offer of working space and help down there.

I had an accident after I left the meeting of Friday, 11/18. I tell you about it because it illustrates why I simply cannot do what others might expect of me.

You will remember that the FBI representatives said on 11/11 that they were reprocessing the cards that index the prosecutorial volumes and would mail them to me prior to our next meeting. They did have them processed but had not mailed them by Friday, 11/18, so I picked them up. There were close to 3,000 sheets of paper. They were entirely unpackaged. They were divided into two, each half held together by a narrow band of cloth strapping. I was able to get half only into my attache case. The FBI did box the remainder for me after the meeting.

As I entered the bus carrying the overloaded attache case in one hand and the box in the other, the attache case glanced against the arm of a seat and then bumped me in the groin. Ordinarily this would have been minor but with me it is not. It turned out that I had hemorrhaged internally. I do not know how much. I know the visible area at the skin level is the size of a tennis ball. This is because I am on a high level of anticoagulant to deter further blood clotting. Major veins have been blocked for several years. The concern I have over this is not from the bleeding but from clotting, already a major danger to me.

This also illustrates a major handicap I have in the present project as well as in all my work for more than two years. I may not fall or cut or bruise myself.

Because of these circulatory problems, I cannot bend well. In addition, because of the nature and extent of the venous supports I must wear all the time, slight bending gents them out of adjustment. They must fit perfectly to be a benefit. Conversely, if they do not fit well, they are a danger.

For more than a year I have not been able to work from the lowest drawer in file cabinets. Before I began to receive MURKIN records, I had to shift all my files to empty these bottom drawers. This was because of the bending or squatting required and because from those positions I get dizzy and can fall.

By the time I began to receive the MURKIN records, I had exhausted every bit of file space in my office save those bottom drawers. I had no other place to put the MURKIN records. When the lower drawers were filled, I had to store the remaining FBI records in the basement.

This means that systematic consultation with these MURKIN records is impractical for me. Instead of making writing notes as I read records, I made extra copies of the small percentage I may use in writing. (For these copies I do not have file space, either. I have to keep them in boxes.) This is why I do not have writing notes on which to draw in the current project for you.

Most of what I can provide you will be restricted to what comes from the compliance notes I made for Jim Lesar. Those notes are not and were not intended to be inclusive. They are illustrative of noncompliance, including on the withholding of names. They do not include all withheld names even where the withheld names are known publicly. As a practical matter, I cannot take time to go into each and every one of the notes I made for Jim.

However, I will dispense with all other work that I can postpone until I complete what you have asked of me.

To a larger extent than you or Lynne Zusman appear to recognize, I have provided the FBI with specific record identification where there is withholding and where the withholding seems to be unjustified. I will review those letters after reviewing the notes. I mention this now because the government represented otherwise to the judge and because I believe I owe you the obligation of informing you of what impends.

You should also be aware that including those matters about which I have already written will not address full compliance with what can reasonably be expected, given good faith and searches in due diligence. The judge has been given to understand the opposite. What I am saying is true in any formulation, whether it be interpreted from the language of my requests or from the Department's substitutions for my requests.

Where no record has been provided, obviously I cannot supply a Serial Number for it. I have informed the FBI that certain records have not been provided although their existence is indicated by other records. The response of the FBI is that it has in hand affidavits attesting to a proper search. I owe it to you to inform you that from my knowledge and experience, not limited to this case, the FBI is not alone in having affidavits for all seasons. They are not uncommonly false. Commonly, they are executed by those without first-person knowledge. Aside from the affidavits filed in this case that are not accurate and truthful, there are others. One MURKIN example is the affidavit of Atlanta SAC Hitt. It attests that there was no black bag job or anything of the sort. There was. I have reports on it addressed to Hitt.

Another gray area is the total lack of records where I have personal knowledge of what leads to the belief that records must exist. There will be illustrations in the list I will be providing. My purpose here is to inform you of what to expect and to make proper searches and compliance possible prior to my completing the listings. This is because I have already written the FBI with adequate specificity.

These and other aspects involve an FBI mindset that has led to incredible nitpicking. The most recent example followed the in camera conference. One of the items of my requests deals with photographs of other suspects. Among those not provided are prints I personally supplied to the FBI. It did not copy and return them. What I told the FBI about this has been and continues to be ignored.

Instead of proceeding on the basis of the information I supplied it and complying in this matter, the FBI argues. It claims, for example, that not I but the editor of the local Frederick newspaper gave it these photographs. While this is irrelevant, it also simply is not true. I will prove it is not true if this becomes necessary and from the FBI's own records. I left these photographs for the local Resident Agent because he was at the Baltimore Field Office. I arranged to leave the photographs for him to pick up on his return to Frederick pursuant to phone conversation. His travel records will establish that in fact he was then at the Baltimore Field Office.

On this more time and money have been expended in perpetuating an effort at noncompliance than would be required with full compliance. I gave the FBI a list of field offices where I have positive reason to believe relevant records will be found. In several instances I also provided names that could lead the field offices to such records if they are not found in the MURKIN files.

Instead of conducting a belated search on this item of the requests on which it had already sworn falsely in this instant case, the FBI wasted more time in preparing more pointless arguments. Latest is its telling me on Monday that I had not given the Baltimore Field Office prints but that negatives were found there. It still did not provide prints made from the negatives it admitted locating. It did not explain why these negatives did not turn up earlier. Or how without an index they were located. Nor is it explained how those reviewing these records in Washington were unaware of the existence and location of my prints. Those analysts and reviewers went over records showing that Baltimore sent my prints to the Dallas Field Office.

The newest attempted justification of noncompliance is to claim that I have expanded my requests. I believe I have made no new requests. All are a reiteration of those I filed prior to the filing of this suit or are part of what has been provided in the Department's substitution for my requests.

The one possible exception exists because initially it was not possible for me to provide the FBI's titles for some of its political files. In that case I did write a formal request months ago in the event the FBI interpreted my request other than I intended. We did reach a verbal understanding on this. It since has not complied with that understanding.

The subject matter is the FBI's political operations. The FBI informed me that certain of those records were under court restriction. I volunteered to make no demand for any separate review of those records in compliance with my request, ~~WHICH DOES NOT~~ include those sex and other personal matters central in that review, if the FBI would provide me with copies of records it did release to others and of those few records about which it gave public testimony to the Senate's Church committee. I have proof that such records have been released to others. I believe I owe it to you to inform you of this. I have made repeated requests for copies of those records used in the FBI's own Church committee testimony. These records are included in the priority requests of others. While I do not know in detail what records have been provided to these others, I do know that months ago there was partial compliance. I have not been given any explanation of the withholding of these records from me.

This gets into another area of which I believe I must inform you, a political area. When the FBI gave me neither these records nor any reason for not providing copies, I asked for separate, partial compliance, for one or two only of those used before the Church committee. These relate to the approval within the FBI for a campaign against Dr. King alleging that in Memphis he used the accommodations of a white-owned rather than a black motel.

I explained my reasons for asking for these few pages. One is that I want to make verbatim quotation in my own writing from primary rather than secondary sources. The second is that from my personal inquiries prior to and following this FBI Senate testimony there is no doubt at all in my mind that, despite approval for this particular campaign against Dr. King, the FBI did not launch it.

This particular withholding coincides with a large nationwide campaign against the FBI by Mark Lane and Dick Gregory based on such false allegations and others still worse. It coincides also with similar aspersions from the House assassinations committee. One possible explanation of this continued withholding of what is public is that it enables the FBI to pretend it is being persecuted and that all writers who do not agree with it criticize it unjustly and inaccurately.

There are other items of the requests that cannot be addressed from a review of the records that have been provided or from the notes I made when I read those records. Another example is the surveillance item. With the search limited to MURKIN, retrieving such records is an assured impossibility. Limiting other searches to HQ indices of approved bugging and tapping involves other automatic exclusions from searching about which I have already written the FBI.

In this sense and in the sense of potential political liabilities, I have a Headquarters directive to the St. Louis field office that amounts to instructions to break into the premises of James Earl Ray's sister and brother-in-law, Carol and Albert Pepper. I have no record of any response by that field office. I know independently that at that time the Peppers were aware of a burglary in which nothing of value disappeared.

My letters to the FBI go into what I have observed in and learned from the records provided and more often to what was not in them. When we conferred with the judge on Monday, an effort was made to pass this off by representing my letters as incomprehensible. It will become clear that this is not true. It will also become apparent that there are no requests for clarification of the allegedly incomprehensible. I recall no meeting with any FBI representative in which a verbal request for clarification was made of me or my counsel. I believe I owe it to you, particularly because of the unusual situation in which I am, to put you in a position to determine for yourself whether or not this is one of those "games" to which you referred in our first meeting, those you said should end once and for all.

Separate from whether the FBI's current interpretation of the stipulations is faithful to them is its performance under them. It was to provide these records as processed. Yet none of the Memphis field office files were sent to me until the last moment, the end of September, although some were processed in July. All 6,000 pages were sent to me in a single shipment. As my correspondence shows, it was in unmanageable form. It was without any listing. It also was incomplete by the listing provided after my complaint.

The FBI did not fail to comprehend that it had not provided copies of all the records it listed as having been provided from the Memphis field office files. It merely continued not to provide them although they had been processed and had been reviewed. Providing them required no more than having them xeroxed.

I again requested the six missing sections prior to the conference of 11/18/77. I was then told I could pick up the copies at the conclusion of that meeting. When Jim Lesar and I returned to the FBI Building for this purpose after the conference, we were told that copies had not been made. Then I was told they would be mailed later that day. After another week I still have not received them.

If you want other examples I will provide them. Some will appear when I get to reviewing my letters. My purposes here are to inform you of pitfalls, to enable you to evaluate my honesty in this matter and in what I will be providing and to suggest a means by which you may avoid the potential consequences of this misrepresentation to the judge as well as what can follow it. This is to address the readily identifiable items in those letters before I reach that point in my review. As the memo I left for you with the FBI on 11/18 says, I believe this also addresses "good faith."

The FBI's posture is that everything has been reviewed by the Department. From my knowledge and experience, this presents you with a very serious problem: the competence of the review - in fact, whether it is much more than a rubber stamp. If you

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require amplification, I will provide it in such detail as you may request.

Not unrelated is the continuing withholding in the 25 numbered volumes. (There are 29 in all. Some have more than one part.) These were indexed. The indices were provided under discovery. They have now been reprocessed to eliminate admittedly unjustifiable withholdings. But the volumes indexed have not been reprocessed. These same unjustifiable withholdings still exist in them. A year ago the FBI office of Legal Counsel recognized reprocessing would be necessary.

In reprocessing the index cards it appears to have now reduced the privacy claim to prisoners used as sources. It has given me a list of these names. I have indicated only a few in whom I have special interest, a very small percentage. With regard to those I have told the FBI that I will take at face value its representation that disclosure will present hazard to these prisoners or former prisoners. This reduces the reprocessing of these basic volumes to the virtually automatic.

From the subject matter knowledge you expect me to use in your interest and against selfish interest, which may require that I be able to make telling points against you in court, I strongly urge that these volumes be reprocessed before I get to the point where I will be having to record specific illustrations of the ridiculousness of some of the withholdings in these and other volumes. I assure you that there was and there continues to be withholding of the public domain.

The FBI's position is that while the names may be known the content of the reports has not been connected to the names. I recall no instance of which this is true of the prosecutorial file. A large part is in books, in newspapers, in the proffer of evidence at the guilty plea hearing or was the subject of testimony at the two weeks of evidentiary hearing of October 1974.

I am constrained to make you aware of other liabilities you may be assuming in the continued withholdings from these prosecutorial volumes and other records of the same content. The FBI has represented to you that the indexes to the books on the subject were of no value to it. This is demonstrably untrue. But the FBI did not tell you that I also offered it my indexes to the guilty plea hearing and the two weeks of evidentiary hearing. It refused both. If it had not refused to let itself be aware of what was public domain, it would not have engaged in these withholdings, it would not now be faced with the costs of reprocessing the public domain, and the Department would not now have the problem it confronts.

Once I reach this point in my review and listing, I will be making a record others may also use against the Department. These others range from individuals, of whom I suggest ^{the} Mark Lanes may be in the majority, to the Congress. There is more than one Congressional interest of which I have personal knowledge. One from which great embarrassment to the Department can flow out of this case is a GAO study of waste in the handling of FOIA requests.

The notes from which I will be working are limited to that which the FBI claims is responsive to the December 1975 request only. The arbitrariness of this approach is outside my control. For the moment all I can report is that I believe there has not been compliance with my earlier requests and that they are not included within what was asked of me on Monday. I am willing to undertake other efforts with regard to these earlier requests if you desire it. This offer extends also to other Departmental components. With the smaller quantity of records provided I did not have the need to make as many notes relating to areas of compliance or noncompliance.

My writing to inform you of these matters and to begin to undertake the discharge of the responsibilities imposed on me (on your client rather than on me by the statute) is not taking time from my examination of my notes and the worksheets. The manner in which this was arranged by the Department left me without immediately available copies of some of the necessary records. I have had to await their coming. We did not have enough time on Monday to obtain them from Jim Lesar's files before I had to be in line

to await my bus and to be certain of a seat on it.

Although your offer included what equipment I might need, no arrangement to provide any was made prior to the Department's representations to Judge Green. I am aware of the inconsistency that would be apparent if the equipment had been available. John Dugan did offer me his dictating machine. I felt it would be unwise for me to accept given the accusations that have been made about me. When there also was no provision to get any dictating equipment to me promptly, I offered to use my own tape recorder. When no tapes were provided, I offered to obtain those of the kind John Dugan displayed. As soon as I was home, I went off to locate that brand. It is no longer distributed in Frederick. I therefore obtained two independent recommendations and then purchased those for which I enclose a receipt in the amount of \$22.60. You will note that I obtained a discount for the government. A little more than two hours in time and 17 miles of driving was required. There are ways in which I would have preferred to spend that time, ways in which I could have put it to better use for you. I report it to explain the attached receipt so you can arrange for repayment and as evidence that I did begin to perform immediately and in good faith.

If you will read and consider independently what I report herein, the delays may have been worth the time lost and the time I now take.

There is nothing I can do about what the FBI's widely distributed misrepresentations about me leave in the minds of those who receive them. Your Division is among the recipients. (It also is one of the Department components that has not complied with my PA request of about two years ago. Not one, including the FBI, has complied.) There has been no response to my invocation of my rights under the Privacy Act. There likewise has been silence since I sent the FBI copies of records that clearly establish the falsity of its vicious fabrications.

To a degree this will appear late in the listing I will be making and still later in the review of what I have written to the FBI. This is one of the areas it dismisses as an extension of my FOIA requests. Part will appear in the listing because I am in MURKIN files more than is reflected in those records that have been provided. I am in these MURKIN files in a way the FBI does not want scrutinized. It therefore withholds. To get away with this, it makes the claim that other records were not located in its search. I can take it by the hand and lead it to other records on me and relevant in this case as well as in unmet Privacy Act requests.

There is point in this for you and at this stage because of what it means in this case and what it represents in other cases. This case begins with the directive, approved by Hoover, that my requests not be complied with. To effectuate this noncompliance, the malevolent records were distributed widely. I have more than adequate samples. This was done inside the Department, to the White House after my first request for public information, and to unspecified Tennessee authorities at the time of the 1974 evidentiary hearing for which I was the opposing investigator. There are FBI records I have in which it spells out that because it does not like what I write it need not respond under FOIA. There are other records in which it is explicit that when the Department realized it could not prevail in court, it decided to deny me first use of what it would have to surrender to me. In this instant case it has angled releases to the press to this end. I have copies of stories from various field office files. I do not rely on what reporters told me contemporaneously.

As long as the FBI can get away with ignoring my invocation of the provisions of the Privacy Act, it can continue to use this means of influencing the minds of others. As long as it is able to continue to withhold other records and I am denied the right to correct error in them, its mind-control capabilities within the government are extended. Moreover, its deliberately fabricated libels are freely available in its reading room now, under cover of this case.

Need I remind you that there is a current Congressional investigation and that it has interest in precisely these records? I tell you the FBI did precisely the same thing

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with the Church committee. It thereby influenced what that committee could know.

I do not believe you will find what I wrote the FBI about this months ago to be "incomprehensible." I do believe you will find that in the course of establishing that it had fabricated still another defamation of me I sent it proof of the existence of relevant records not provided by other components.

As I provide a sequential list of illustrations of withholdings, this will be near the end. There are 5837 numbered records, meaning perhaps 20,000 pages, prior to it. It is the Letterhead Memorandum from A. Rosen to Mr. DeLoach in which Mr. Rosen stated on October 20, 1969, with the expectation of perpetual secrecy, that there "is an attempt by Waisberg and Stoner to discredit the Bureau" with what he termed "unwarranted, scurrilous allegations." One repeated by Mr. Rosen is that "Stoner claimed that two men in his party formerly served as informants of the FBI."

J. B. Stoner heads the most anti-Semitic of political parties, the "National States Rights Party." Its basic tenet is that the chief thing wrong with niggers is Jews, of whom I am one. He and his associates appear in Headquarters and field office MURKIN files because they were considered suspects and because for a short period of time after the guilty plea he was one of James Earl Ray's lawyers.

~~XXXXXXXXXXXX~~ A police official had shown Stoner copies of FBI reports the sources of which were readily identifiable. I informed a Department lawyer of what Stoner was prepared to provide had been done by FBI informers. Some of the dubious activities of these informers is no longer secret. Once indications were known to the Department - eight years ago - it became necessary to manufacture more mind-controlling records about me. What I actually reported is not "scurrilous," has been proven to be completely truthful, and it explains continued withholdings in this case.

From my knowledge of this crime and its investigation, of the files provided in this case and from the reading of thousands of pages of FBI political records, I believe that the withholding of records relating to me in the King assassination have the obvious motive of seeking to deter further exposure of FBI misdeeds that now are becoming public knowledge.

Its rewriting and unjustified interpretation of the surveillance items of the requests assure noncompliance. The requests are not restricted, for example, to what was approved by FBIHQ, nor are they limited to acts performed by FBI agents. Aside from what I have said at conferences about this, I assure you I have FBI proof that the FBI was the beneficiary of such surveillances.

I am aware of the dislike of long memoranda. This, however, is a long case with a longer history and a very large volume of records. I have taken this time because of your personal assurances relating to this case and compliance in it as well as to eliminating the need to go to trial. For you to be able to achieve your stated objectives I believe that you must be informed, particularly because there is contradiction of the government's representations about withholding and about compliance. I am undertaking to inform you with time that come from other work and from the writing I want to do.

Perfection is not a human state. We both know I am the plaintiff in this matter. We know that the present situation, one I believe is unprecedented, can be interpreted as shifting the burden of proof onto me. There are elements of other unfairness, as my having to disclose what will enable the preparation, if not also the fabrication, of defenses against what I report to you. I do not hide my cause for resentments over personal abuse of and damage to me extending over a long period of time. As I believe the record will show that this has not influenced me or my conduct in this matter, I believe it also will not lead to any distortions in what I provide you. If there is any allegation of error or prejudice, I will confront it provided that a record is made of that confrontation.