

JFK up/llc

To Quin Shea from Harold Weisberg, JFK and MLK Records, your letters of 9/27/78 9/29/78

I, what has become traditional Government practice in C.A. 75-1996 I was handed a copy of your letter as I was about to walk into the courtroom for a status call yesterday. I was able to merely skim it in haste prior to the beginning of the session. I respond in haste, again without time to go over it with care, in the hope that it will save you time and reduce the enormous waste of Government money and the Court's and my time. You reflect the benefit of Government counsel's and FBI misinformation in a case so large because of the obstructionism that I am certain it has not been possible for you to become aware of either what is involved or what has already transpired in court.

You cannot, for example, be aware of either the history or the language of the stipulations the FBI asked of me or you would not have written as you did. The stipulations relate only to the waiving of a Vaughn v. Rosen inventory. They do not relate to the content of or other compliance with my information requests. Furthermore, they require compliance by the FBI as a condition for their effectiveness and the FBI was in immediate and continuous violation of the terms. I regard them as null.

While I do not know all the reasons that can account for the lack of knowledge reflected in your letters I presume they are attributable to the loss of staff that worked on this matter because I have provided your office with relevant information.

From the first the FBI sought to rewrite my requests and from the first I opposed this and the judge agreed with me, as the transcripts I presume have not been provided to you will show.

There came a time when we showed the judge that the FBI was excising from records it did provide what I had actually asked for. The Government's explanation then was the that excised information was not included in the request it then was processing. In the course of arguing this Jay Dugan actually claimed that once the Act was amended all information requests on which the FBI had not acted were outlawed. The judge held otherwise, read the requests I had made going back to March 1969 and interpreted them as asking for "all" information on the King assassination. She specifically refused and rejected this Dugan contrivance. To make what is included more comprehensible to you, one of the items of the first and ignored requests was for all information said to show that James Earl Ray was guilty.

As what I have provided your office shows I had no knowledge of the code-name MURKIN when I made my requests and did not use this limitation in the requests. The court record reflects that my counsel made this clear in court and the Government was well aware of it in insisting that it could and would comply fully from the MURKIN records, initially with the additional false pretense that this could and would be from

FBIHQ file Murkin only. I regularly pointed out that this was impossible, regularly showed the FBI how it was impossible and I now cannot and will not accept this arbitrary and capricious means of denying me records. There is no limitation of MURKIN files. My request is by subject and the only way to terminate this case without further and wasteful~~ly~~ and costly litigation is by dropping the FBI's contrivance and complying with the actual request.

Exemplifying the degree to which this mind-set has already corrupted the thinking and understanding of Government counsel, new counsel handicapped by ignorance of the earlier stages of the case and even ignorance of the actual requests, produced a "Herold Frank record (more properly a single page of a record) and complained that it was not in MURKIN files. Well, I have a specific item of the requests relating to "Herold Frank. Whether the relevant records are in Murkin or the trash can is totally irrelevant. I did not limit the request to MURKIN and I believe that neither in the past nor now can the Government undertake to do this.

You have been misled by a similar device used by the FBI as a means of converting the stipulations into an engine for non-compliance. DLC SA Charles Matthews did not tell the field offices not to search all the relevant records. Instead he told them to search only some records. Their affidavits, which he also drafted to assure non-compliance, are limited to attesting to searches under the limiting conditions of his directives. As I recall the New Orleans case, it was to "main" and "Sub 10As" only. In short he ~~instructed~~ the field offices how not to comply without spelling out what thus became unnecessary, that they were not to comply. In turn this leads to your misunderstanding of what should have been supplied from the St. Louis field office. If the Byers and related records were not filed under MURKIN or if they were in another Sub they are still within the actual request rather than the FBI's unauthorized and unjustified unilateral effort to rewrite them. (I have made the Department aware of these revisionist efforts since late 1975 when the first effort was made.) Now if your staff reviewed all the records sent to HQ by this field office it was not able to review what was within the request and was not sent. In addition, I gather from your language that you also wore the "MURKIN" blinders.

If your office is not aware of the basic facts reflected in the foregoing and some of what will follow it will be misled into believing that I have changed my requests, which I have not done. I have clarified one aspect only. It may also be misled into belief of irrelevancy.

You were misled on the file designations for informants. I took your word and compromised this with regard to the Byers and related records. Then I learned that the FBI's representations to you were not factual or even truthful. The FBI does disclose

such information in full -t others but not to me -and I produced proof of this in court on 9/14/78. This was in the form of two fat volumes of FBI records -not all relevant FBI record - relating to Willie Somerset, the former informer, now dead. The requester was my friend Dan Christensen, Miami free-lance writer. I obtained the records from him when he brought them to me.

In the light of this and as a matter of principle I do not want to be denied any information by FBI misrepresentations and ask for the full designations on the relevant records rather than the limitation to the initial part of the file numbers, like 137. I will not voluntarily be discriminated against and I will not voluntarily lend myself to precedental schemes for any non-compliance.

In this connection you made reference to privacy matters. Where there is actual privacy consideration I do not contest this and in fact am in full accord. The problem you and I both face is in determining whether there is any privacy to protect and in fact whether what is withheld is within the public domain. I believe that most of the withholdings by the FBI are in fact within the public domain and neither the processing nor the reviewing people have any way of knowing this.

With regard to the St. Louis information withheld you should be aware of the fact that people involved with Eyere and his stories and now dead and their wives are all known and well-publicized. So also are several other FBI informers, of which I have written to you. Here the FBI withholds even from its counsel. Through my counsel I have provided taped statements by several of these informers. And again I note that the means of deliberate non-compliance is the MURKIN contraption, although it would seem that this information should have been filed under MURKIN wherever else it may have been filed in St. Louis and elsewhere. Patterson has, for example, told me of reporting to SAs outside of St. Louis.

You also are under a misapprehension with regard to the so-called prosecutorial volumes. Most if not close to all of the withholdings from them whether or not now withheld from the index, are within the public domain. On this I am taking the position indicated above, that I will not be party to any unjustified FBI withholding. The FBI had no right to withhold this information. Period. It was aware of this when it did the withholding because I inferred it. It now takes a position opposed to what I understand to be a basic American philosophy of law and justice, that it is entitled to be the beneficiary of its own wrongdoing. Additionally it claims that having gone to such unnecessary cost and expense to do wrong it should not now have to go to more expense to undo the wrong. I will not agree to this voluntarily and I would hope the Department would not and would not ask it.

Failure to correct this deliberate FBI wrongdoing is certain to create serious problems for the Department and for me. There simply is no way that correction of the unjustified withholdings from the index can rectify this.

As an example of the seriousness for the Department I note that the indexed records hold more than a single name per page. There is no way in which the index can eliminate the confusion certain to result from use of the index to determine which names belong in what part of the excised record. Moreover, in the future there will be countless people who will not have access to the corrected index or will not be able to use it. You face the possibility of decent women being converted into prostitutes from what the FBI has done, of honorable men being taken to be professional crooks and of law-abiding citizens being taken to be jailbirds.

There is no way in which you can protect the innocent except by the proper processing of these prosecutorial volumes.

For me and for my use of these records this also is essential. First of all I do not want to be in the position of guessing which entry applies to what part of so many thousands of pages. (There are about 3,000 cards alone.) Second of all it will be a physical and a mechanical impossibility for me. The only place I will be able to keep the records improperly excised other than where I now have them is in the basement of my home. I simply am not able to keep going up and down stairs to consult them. Nor am I able to consult them in the ^{when they are not any and must remain} lowest of the file drawers. For this reason I made copies of the pages I plan to use in my writing and have them in an accessible place. It is beyond my capacity to do all the shifting, cross-checking and totally unnecessary searching that will be required of me. I require what I asked for, the information, not any substitute or gymnastic guesstimate of it.

In addition, I am not going to agree that the FBI has any right to withhold what it knows is within the public domain.

You also say that I will be given all JFK records as they are released and you take a position I do not fully understand with regard to this and the House committee, which also includes King information not provided to me.

I have yet to receive any JPL information provided to any other requester, all or almost all of whom are later requesters. The one exception is the Rowell picture, of which I have informed you in an earlier memo. The FBI stonewalled on this after I informed it more than once. It sent me a print to keep me from complaining that the House committee gave it to the media before I received it. It has not complied with the other parts of that request now almost 11 years in the past.

Last night I was informed of still other such records made available to another and not to me. My source was that requester, David Lifton, whose home address is on Dorothy Street in Los Angeles. He is for the time being in New York. May I ask that you

ask the FBI to provide duplicates of all the records it should have provided and continues not to provide? It can do this if it ends its unwillingness by means of its prior compliances, I believe quite easily.

With regard to Congressional committees my position is simply this: if I asked for the information ^{if} and it is not properly withheld from me it cannot be withheld from me in order for the FBI to be able to Cointelpro the often willing and often underinformed Congressional staff people.

I do not take the position that because information is given to the Congress it must be given to me whether or not it is, for example, properly classified. I do take the position that if the information cannot be withheld under a properly-invoked exemption and if it is within my request it must be provided to me. In these cases any that has not been provided is long overdue by any measure of any backlog.

As a result of these improper withholdings from me the FBI has been able to manipulate events and what is known and has come to be believed, which include misinformation and falsehood. The cost to the nation will be serious for years to come.

In the foregoing, which is really off the top of the head, I am trying to save you and your staff time and trouble. I believe that I am also providing a means for the Department to save still more time and trouble - and unnecessary litigation.

^{This} is why I take time and write in haste before being able to make a close study of your letters. The time taken by my following the hearings and responding to the press about them and the coming visit of the professor who is in charge of the university archive of my records (he is going to pick up more of them, too) have put me farther behind and will take more immediate time. I believe it is necessary, if we are to avoid unnecessary litigation, that I go over what you have written with care because of what the foregoing reflects of what I noted from a hasty and ~~hasty~~ incomplete skimming. When I can I will do this, as I have told my counsel I will.

I want to add another generality. The FBI's withholdings that I believe are unjustified are contrary to what the court stated and were made after the court did state what it did with regard to what could not be withheld and what is included in my requests. Government counsel should be able to provide you with the relevant portions of the transcripts.

As I believe I have informed you, my request includes copies of any and all indices. The withholding of these indices, those of Memphis in particular, imposes a great handicap to processors and reviewers. I believe also that I am entitled to copies of them and that once I have them I can be of further assistance in effectuating compliance and reducing if not in fact eliminating the problems that have been created. I this I am also saying that the FBIHQ's index of the prosecutorial volumes are not

the only relevant index, that the FBI is well aware/of this and that its contrary pretenses are an effort at further deliberate non-compliance.

There appears to me to be much to discuss. If you agree I will find whatever time you or your staff may require.

While I will not be able to take the time to search the transcripts for you I believe I can provide sufficient information and that this responsibility falls upon the FBI, the Civil Division or both.

To a degree I have already provided the information, including in detailed affidavits. Your letters reflect the fact that this information has been withheld from you by both the FBI and Civil Division.

While I am aware of the problem made for you by the loss of staff, I hope you appreciate that this matter is more than 10 years old for me, that my complaint is of 1975 and that if there are to be more long delays I will have to consider whether I am not better off seeking to force judicial determinations.

As a matter of fact, information that is within the public domain that was withheld from the very first records provided remains withheld. This is at once a deplorable reflection of determined FBI stonewalling and of what I believe most requesters would regard as the futility of trying to accommodate the FBI and the Department. It is anything but reason to believe that efforts to obtain amicable compliance will succeed or even are still justified.

I am 65 years old, I have undertaken a very large study and my health is imperfect. Aside from the unhidden impatience of the judge and her desire to bring the litigation to an end I also am anxious to do my own work. I would hope that after some of its prior experiences the Department would prefer that I not force what might result in some of the decisions of the past and their consequences. If I am not to seek to exercise other options I do require some sort of meaningful assurances of compliance in the near future. As of now I lack them.