

Dear Jim, King requests; proof under FOIA; anticipated Duggan's 9/21/76

I have previously written you that I anticipate Duggan will pretend that my requests were not under FOIA, as they were; that the regulations do not require the filings of DJ-118 forms; that I had, however, asked for them and the DJ regulations without response; that I finally had to go to Justice to get them, when you were with me.

During that period I kept all originals in a chronological file. I cannot find it. I assume it is mislaid or stolen. After I get this all together for you I'll try to think of places it might be. I have a very clear recollection of it from the time it grew too large to be held in a single folder. It was in a dark brown one with the Acco clip built-in.

I did have an incomplete file of copies. It is labelled copies. What follows and these copies I have removed and will have with me come from it.

With regard to my request for the next November 1966 press release I believe the copy of my written request of July 10, 1967 is fairly interpreted as meaning in that one case I did not invoke the law. The reason is that my initial request, referred to in that letter, was verbal and was prior to the effective date of the law.

Beginning with my Ferris requests of earlier date, these copies leave no doubt that I was using the law as then was the practice.

My correspondence with Justice on it, from this file of copies, began with my receipt of Acting Archivist Herbert Angel's September 11, 1968 rejection. His last paragraph in fact invokes the law and the irrelevant investigatory-file exemption.

On September 14 I wrote Attorney General Clark. I cite the Angel letter and his referring me to Justice. Under date of November 7 Fred Vinson then responded. It was not a response. It was stonewalling. I said this in my November 2 letter. In it I conclude with the allegation of "violation of law and regulation." I follow this with the request "that you outline to me those steps I must take to carry it forward in the prescribed manner. That is my intention."

Vinson's stamp-dated original carbon does not response to this. Dated 12/18/68.

I appealed to him again under date of December 17. I there conclude, "If you deny this request and if any special forms or papers are required under the applicable law, I ask you to send them to me with instructions for carrying this further. My previous requests along this line have been ignored. (My emphasis, to show that from early on I could not get the forms or the regulations.)"

As usual, they ignored it and I made another, unsuccessful effort with the Archives.

January 1, 1969 I made another effort in a letter to Clark. In the second paragraph I "address the improper withholding" of what I seek. After I describe his own executive order of October 31, 1966, I say the continued withholding "cannot improperly be considered to be covered by the subsequently enacted 'Freedom of Information law,' I believe I am entitled to it and I ask for it." Still in the context of the Act I argue about the leaflet-fingerprint (top page 2) "It seems to be immune to proper withholding. I ask you for a copy." I then, in the context of arguing against the investigatory-file exemption, make other requests.

On March 5, having given the new administration time to take over, I resumed this in a two-page letter to Mitchell. While it may be argued otherwise, I believe the language of my penultimate paragraph is in the context of the Act, "My purpose in writing is to ask of my government what it has improperly denied me."

While the correspondence with Griminal is missing from this file, my June 2, 1969 letter eliminates any doubt I was invoking the Act. I repeat the history of the requests "in which I asked for access to what I am entitled to under the law it is your obligation to enforce..." I follow with my intent is there is not voluntary compliance with what I called "requests," in these words, "if necessary I want to invoke the laws that entitle me to that which I seek. I prefer not to have to resort to this (meaning suing), as

I would hope you would...

After referring to my "specific requests for specific information" I asked "if I am refused this information, I respectfully request citation of the authority under which you refuse it." If this is not specific enough what follows is:

"I also ask that you provide me with the forms and instructions I will need to ~~xxxxxx~~ seek to obtain this information ~~xxxxxx~~ the 'Freedom of Information' law. It is my intention to invoke the provisions of this law, if necessary." I believe this can refer to nothing but the suit I ultimately filed.

I then again protested their never having given me their regulations and forms in these words, "May I call to your attention that I have, in the past, asked the Government for the means of utilizing this law without having been so equipped? I do not think this was the intent of Congress in enacting the law."

In the penultimate paragraph, apparently having forgotten I had already done it, I included the King material in this way: "Among these unanswered requests referred to above is the evidence presented in court in England. I would like to broaden that to include that used in Memphis, directly and indirectly, in the case of James Earl Ray."

(I have another copy of my 4/23 to Belcher clipped to this because I believe the language in it clearly refers to the Act. "I asked ~~xxx~~ of you certain material to which I believe I am entitled." I can think of nothing other than the Act that entitled me to it.)

My 6/2 opens by saying my earlier requests to him had been referred to Criminal, which is why I wrote Belcher.

I think the foregoing, if incomplete, makes clear that I was using the Act, which I then called the law, and specifically with the King records. It also makes it clear that through this period I had not received any copies of the DJ's special regulations and forms and that I made repeated requests for them. Under these circumstances I do not believe that my not using the forms they refused to supply after repeated requests can be used to argue that I was not making the requests under the Act. I also believe that my hope to avoid litigation is clear, too.

My first 1970 record in this file is of Rolapp's call in which he told me they ignore the Act's name on the Act.

Note in this connection the first paragraph of the poor carbon of my letter to Kleindienst. As best I can make the date out it is 5/10/70: "...your regulations do not require the filing of a DJ-118 form..."

When Rolapp wrote me 9/23 and said "it is necessary" when I responded on 9/28 I said he could "require it" I asked "does the Department make this requirement universal?" I find no response to any of these questions, no denial. Then I explain one of my objections. "Using this form makes me feel it will be necessary to go to court. That, I assure you, I would like to avoid. Hence my initial suggestion that we dispense with the unnecessary formalities."

However, where they required that I use the forms I did. Thus when RE Gerald "ines" required it 2/22/71 after I wrote a request of 2/17, I did that but again raised the question of it being mandatory. I again explained that "I find the whole concept that a citizen must use legal force to obtain public information from his government inconsistent with the theory of our society and government."

On January 4 I asked for copies of the lists of the records they had released, explaining that those from the Archives were meaningless. In this case Kleindienst did not require a DJ-118 form. He merely ruled that such lists are not covered by FOIA: "The question presented in your letter is not one of obtaining information under the Freedom of Information Act." It is my recollection that the original Act was specific on this, my way. He actually said this meant they would be conducting my research for me if they provided the lists!

The forms themselves were inadequate. They permitted only about an inch for the description of the record requested. They became a means of harrasingg me. Thus when Fines wrote me 3/15/71 again demanding a form be filled out, it was not returned to me when under this item I said no more than "see letter of Gerald D. Fines...dated 3/15/71." When I wrote Fines on 6/21/71 I noted, without denial, that "Most of the public information supplied to me by the Department has been supplied without a request that the form be completed..."

Not that I received that much, but it is true. I find no letter denying it.

Bearing on whether any backlog causes delays and non-compliance is my 12/11/71 letter to Mitchell asking him why it took "a year and a day to tell me that the Department does not have what I asked for...?"

There are a few other records I've put in the folder, from this file, in the event they may be of use on the 30th.

If I think of other files I can search, I'll do that.

But I don't ^{find} the folder in which I had the originals, which leads me to believe that Scott also did not have it for the breakdown he did.

Hastily,