

Referrals

To Quin Shea from Harold Weisberg, King and Kennedy assassination records 6/28/79
and Privacy Act requests appeals relating to
Referrals
"National Security" claims
Withholding of existing records because providing some is "substantial
compliance."

This amplifies my prior appeals with factual rather than legal citation of the
appeals court's No. 70-1391, decided this past Monday.

With regard to referrals (page 16)"an agency may take ten extra days in responding
to a document request when it must consult with an originating agency on whether a
requested document should be released. ^{But} ~~the~~ the agency that received the initial
FOIA request retains responsibility for producing the document."

This is precisely what I have stated in many prior appeals, save for the number
of days. There are records that have been withheld for more than a year on the ground
that they were referred, including within the Department. And in all my cases.

Would you please let me know when I can now expect compliance and the production
of these very many withheld records?

While there are many illustrations of withholding on the alleged claim of what
is called "substantial compliance" and I mean this amplification to apply to all, I
illustrate with the King case, in which the FBI knowingly withheld what it knew it
might not withhold and in which it refused to search files it knew it should search.
Essentially its argument was it had given me some records and replacing those in which
it had withheld improperly and searching other files was not necessary and would make
a wasted cost of its initial improprieties. I informed the FBI on a regular and timely
basis (also other components) of the impropriety of the withholdings and of the files
required to be searched in compliance, which is much more than is required of a requester.
In discussion of Exemption 5 claims on page 16 this decision holds that even with sub-
stantial compliance other existing records must be provided.

Here again, especially with the requests of more than a decade ago and a case in
court since 1975, when may I now expect compliance or action on my appeals that may lead
to compliance?

From whole paragraphs to whole pages to entire documents there has been extensive withholding under claim to "national security." My appeals have included that parts were reasonably segregable. Even the dates and serial numbers have been withheld under claim to "national security." In addition to the numerous examples I have provided I will be providing more. The records are copied. I have not been able to get to them. Under this spurious claim the public domain has also been withheld and I have provided you with the content of some of the classified records, even those stamped "Top Secret." I was able to do this precisely because the information has been in the public domain for years. Such information, obviously, is "reasonably segregable," as is other reasonably segregable information that does not require classification of any kind. My position on this is affirmed in this decision on page ~~11~~ 11.

These relate to major parts of what interests me for my own work as well as for assuring a full and accurate historical record in the public role I must serve and they are involved in all my cases as well as my FA requests.

Given the age of the requests involved, the most recent being of about 1975 and the fact of cases now in court I believe expecting prompt action and prompt compliance is not expecting too much. Because there are cases in court I ask when I may expect action on the appeals and thereafter compliance.