Cong. Don Edwards
2138 Rayburn House Office Bldg.
House of Representatives
Washington, D.C. 20515-6216

3/9/90

Dear Don,

I appreciate your letter of the 2d and the enclosures. Especially Moschella's prepared statement. And I look forward to reading Hosty's testimony because I'm sure he was not truthful and may have practised a bit more perjury in it.

I do not presume that you would want it, but if you want me to read any of the testimony about which I have knowledge for truthfulness I'll be glad to.

On the first page, without being quite as specific as I'll be, Mochella says they cannot disclose "degoratory information about individuals who have not been convicted or even indicted..." They've never stopped doing that about me and Moschella not only continues doing it but is nonresponsive when I ask him about it.

Nine months ago he sent me derrogatory records about me in two batches. At least one of those two was in response to a third-party request. I was not the subject of the FBI's investigatory interest. I immediately filed a request seeking only to learn the identity of the requester. The next month , last July, I was notified that the request was being researched. I've gotten nothing since and no responses when I wrote him. all the information required was in his office and required no search at all.

My requests for information about myself began 15 years ago, have been renewed often enough, which is also true of the ignored appeals, and the information about me disclosed last year to this third party was not only not provided - the FBI denied it existed when I wrote and asked, having a suspicion that I might appear in that file.

The other batch included records relating to the Mayne-Silver Shirts I believe I mentioned to you. This is clearly within my ancient requeest, a number of times over the years I reminded the FBI and the Department about it and the absence of any relevant records in what was provided. And appealed the withholding. Not only are those that were provided last year obviously incomplete, radically incomplete, they refer to others that remain withheld. This appeals to both HQ and the Washington field office. I wrote Moschella about this nine months ago. He has not replied and I've not received another page. Instead he wrote what is an obvious lie, that no records indexed to me remain withheld. Aside from what remains withheld in that matter, I've provided the FBI with copies of its own records that quite specifically identifiy other records relating to me that remain withheld. I attached copies of these FBI records to my appeals and the appeals remain ignored. Instead defamatory and false records were distributed.

On page 2 of his statement Moschella says that "at leastothree analysts have been working on a full-time basis since 1982 on a (sic) request for FBI records pertaining to the assassination of President Kennedy." As Jim Lesar and perhaps Quin Shea, if he recalls, will confirm, not long after the 1974 amendiments I requested all such records. Obviously, if my requet had been met, there would not be anybody still working on any of those records. Instead of complying with my request the FBI pretended compliance with it with its "general releases" of late 1977 and early 1978. It limited those disclosures to some of the files and then limited them further to those of FBIHQ only, on the fiction that has been quite costly to the government, that all pertinent information is in HQ files.

If the ~~three~~ eight years of work that Moschella refers to includes any records of the New Orleans and Dallas offices, I filed suit for all of them when my requests were not complied with in 1978. They then swore repeatedly that all pertinent records had been disclosed. This was and was known to the FBI to be false. Jim Lesar handled that litigation and the

FBI and Department behaved very badly in it - even seeking sanctions against Jim and me. Take my use of the word literally, there was redundant perjury in it by the FBI. In using the word I am not including false swearing where the FBI affiant could defend himself by claiming a lack of personal knowledge. The attestations could not have been more relevant. material

Moreover, as I think Quin Shea will recall and Jim and I both have records on, the FBI agreed to provide me with copies of JFK assassination records disclosed to anyone else. It not only hasn't - I had no knowledge until reading this statement that they were still processing JFK assassination records.

I think Quin will recall it because he arranged it, my inclusive request not having been complied with, for one reason.

Jim may remember, still addressing this business of three analysts working continuously for eight years on JFK assassination records, that an FBI FOIA agent whose name I recall as Howard testified in my King assassinations case that Jim also handled that they had then processed all those records three times. On cross examination Jim asked him why they had not been disclsoed to me and got no answer. We have those transcripts. The case is C.A.75-1996. I say "is" because it is still before the courts, on the question of counsel fees. They are litigating and spending more money in litigating that complying with the court's decision would have cost.

My experience is that the FBI and the Department have always had a policy of running up costs deliberately, to have the kinds of statistics Moschella dumped on you. There is another aspect of this to which I'll return.

Moschella said (page 5) that "the requester risks little or nothing by filing the suit, as a losing plaintiff is not required to pay the Government's costs to defend even the most frivolous of claims." This is not literally true and I believe they have gone after requesters under Rule 11.

Not one of my cases ought have gone to court. The FBI forced this litigation in every instance. Not one was a dry well, either. The costs of litigating against the government to the average private citizen are prohibitive and experience soon teaches the lawyers who tell their clients, I'm sure, how much more expensive the government can make it. There was no nit too small to pick with me. Jim and I often spent costly months seeking non-exempt records about which the government regularly sought to mislead the courts and without my knowledge would have succeeded in misleading the courts. This relates mostly to the FBI and to Moschella's office.

Take the King case again as an illustration. We had a number of status calls over a period of months in which they stonewalled and frustrated the judge, making her more anxious to wipe the case out, only two of a number of such matters. One was a threat to kill Dr. King when he was killed and the other was an inventory of records that included all records relating to the King assassination held by the field offices!

"Little or no cost" to a writer who has no regular income? To a college professor?

They've got a money judgement against me I've been daring them for years to come out to a Maryland court and try to collect because there was no proceeding on it (it was before a judge they knew they had in their pocket) and to get it from a Maryland court, after a trial or hearing. They don't dare. The got it by perjury.

Moschella again told you their canard that under Open America they process first-in-first-out. Most of my requests were ignored. But recently they've disclosed some records relating to Yuri Nosenko. My Nosenko requests are at least a dozen years old and those records were not disclsoed. It was many, many years before they gave me any Nosenko records and then what they gave me was limited to the request of another they decided to comply with. (It is my belief that they expected the kind of use they wanted, knowing where he was coming from, but he died and did nothing with those records.) I can't remember how many appeals I filed but there were a number I have in a separate file and they were ignored. They have other unprocessed Nosenko records.

On page seven Moschella says that his component does its own searches on requests "about themselves, thus eliminating the delay" where others would have to search. Yet he hasn't sent me the requests I refer to above that include derrogatory records about me after nine months and all the information, maybe as little as a single page, is in his own office. They have not done as they said with me and I've given them the identifications, as I say above, of the files in which they have records they still withhold.

In the disclosures to this third party that includes those records on me it is clear that some of what relates to me was picked up on phone taps. In C.A.75-1996 they were to have disclosed all records of any electronic surveillances that included me. They told that court there were none. Last year they let me have these records that they lied about. There are other such records they have disclosed to others of which I have copies that they have not disclosed to me and about which they lied to that court. I've told them this and Moschella all the same write to me that there are no records indexed to me they have not given me.

Misuses of the Act for FBI political reasons is a major factor in its costs under FOIA. They first force litigation and that means much cost for all parties,as they forced all my litigation, the alternative being I'd get nothing at all. The record is clear on this in the Senate's 1977 hearings. There were some 25 of my requests that had been ignored and Moschella's predecessor, McCreight, refused to say that they'd process those requests. To this day they haven't, although some of the requested information was much later disclosed when it was incidental to other requests.

When the subject matter of a request is sensitive to the FBI, as JFK and King assassination records assuredly are, they stonewall both requests and litigation. Those files hold what is seriously embarrassing to the FBI. Ultimately I got more than a little that can be said some of which has been. Not by any means all. This stonewalling results in greatly magnified costs for all parties. The more they can stonewall the more they can delay and there is always the chance of getting away with suppression.

Quin Shea's statement does not address such requests. Nor does what he said about Tom Bresson relate to Tom Bresson's record in my litigation. As I'm sure Jim Lesar will recall.

The case over which the investigatory files exemption was amended in 1974 was my suit for the results of the scientific testing in the JFK assassination investigation. The FBI had hidden from the Warren Commission the fact that it had done some neutron activation analyses, so my request did not include it. After they got away with murder in that case, which included overt lying to Judge Sirica by the Assistant United States Attorney and a false affidavit by a Laboratory agent, Jim refiled it for me as the very first case under the amended act. I rewrote the request to include the results of the NAAs. The FBI then provided no NAA records. Instead, when we made an issue of it, Bresson told that court that I had withdrawn that part of the request. Does it make sense, aside from its being absolutely false, that I verbally withdrew what I amended the request to include? Nonetheless, some of the records I got are pretty hairy. Like, as you may remember from your own days in the FBI, spectrographic analysis disclosed only two chemical elements in a bullet, the so-called "missed" bullet in that crime. and then the FBI told that court that the thin plate, hardly thicker than a piece of photographic film, was discarded to save file space! It stalled providing any NAA material until the very end and then gave me a mishmash of adding-machine tapes it would never put together so they could be used in a sensible way. (I think, however, that what I got from the successor to the AEC shows that the paraffin tests prove that Oswald had not fired a rifle.) *only this one discarded!

I write this in haste in the hope it can be useful to you. If there is any way in which I can help, please let me know. I have all the records, every paper filed by both sides in all my litigation and two file cabinets of documented appeals.

I am reminded of one FBI record that you may have some clean, legitimate fun with. Jim will remember it and perhaps can find it easier than I. The FBI can provide it, of course, and probably related records I did not get.

The House Select Committee On Assassinations was duplicating much of my work. Not eaactly as I did it but they wanted what I'd been suing for. The FBI actually decided and actually put on paper that they would stonewall the Congress to the degree it could and if necessary, would restrict the Congress to some of what it had already disclosed to me!

Honor bright! They actually did put this on paper. We used it in court in the King case.

Unless my memory fails, Bresson then was in charge of FOIPA.

When they don't like someone or his writing their costs mount with their effort to circumvent or frustrate the law - and him and his writing. I think more with someone like me whose work they cannot fault on accuracy. Their record in my litigation bears this out.

Their records on what they have done for writers they like, particularly known sycophants show the lengths to which they go involving costs to the taxpayers and pressure on others to help them. Like giving them all they need for books and articles and getting them free hotel rooms. Editing the books, too.

When Moschella speaks of costs, they didn't spent much but they did use some tax money to prepare four lawyers to oppose me on a TV talk show on which they thought I'd criticise them.

They spend money to keep files on writers. They hide them in "94. Research Matters." Then they refuse to disclose 94 records on the spurious ground that "research" is not pertinent to the requests. Field office 80 files are sued the same way.

I refer above to the costs of seeking to avoid embarrassment to the Bureau by withholding non-exempt JFK assassination records and in the first paragraph on the first page to perjury by Hosty. I was not referring to Hosty's testimony before your subcommittee, which I've not yet finished reading but to his Warren Commission testimony. The embarrassing records I referred to are those I have, and there are many. There are many other areas of potential embarrassment to the Bureau that are stated in the enclosed copy of an FBIHQ tickler. (I copied this with paperclips added to call my attention to those items.)

This particular tickler appears to be for damage control. It had no other identification when it was disclosed in a case in which all records originating with the Congress were not to be disclosed. To the best of my knowledge there has never been any public use of this document. Virtually none of what is referred to has been disclosed and where there was compelled disclosure, like the Hosty matter, which I've marked on the first, second and four pages in blue for you, some has not, to the best of my recollections been disclosed, such as the fact that the "destruction" was "handled" by HQ on Sunday, November 24, 1963, the "effect" this destruction had "in subsequent days" and the "implications." This does not appear to be consistent with Hosty's representations to you, that it was a matter of no consequence.

I call this Hosty business to your attention not because I believe it is what you are now going into but to indicate lack of FBI forthrightness with the Congress. I believe that much of its FOIA costs are attributable not to the Act but to its misuses of the act for such things as seeking to avoid being embarrassed.

I hope I have not wasted your time in trying to inform you without knowing where your present hearings are going. I do hope they go well and that your trust is not imposed upon. Again, apologies for typing that can't be any better.

Best wishes,
Harold Weisberg