

Dear Jim,

2/25/84

Now that 1984 is here, the FBI is exceeding itself in its dedication to Orwell, as is reflected in James K. Hall's letter of the 16th to you and the 21st to me. In the letter to me it also undertakes to provide secretarial service to the appeals office and uses the opportunity for misrepresentation, false pretense, evasiveness and nonresponsiveness. I think it also is not unfair to add dishonesty.

As usual before 1984, the FBI overworks the memory hole and rewrites the past to control the future.

No purpose consistent with honest intentions is served by any reference to Judge Gesell's decision (2/16, page 2) because it was specifically limited to what was at issue in that lawsuit. However, as Mr. Hall omits, even at that time a partial fee waiver, to which he makes no reference, had been granted to me by the Department, of which, at least in theory, the FBI is part. Thereafter, a full fee waiver was granted by the Department, covering all materials in any way related to the investigations of the JFK and King assassinations. Mr. Hall makes no reference to this. It also was abrogated, not by the appeals office but by the Civil Division, and that act was based on undenied fabrications over the name of the Civil Division lawyer, whether or not on behalf of or at the instigation of the FBI. I appealed this pointedly and specifically, with the request that Mr. Shea direct copies to all those involved in it. Naturally, Mr. Hall makes no reference to this. Not only has that appeal still not been acted on (am I to presume a backlog of almost four years in acting on appeals - not that all appeals are acted on, of course) but my allegations of falsehood and fabrication remain entirely undisputed.

Mr. Hall also states that my "previous request has been administratively closed in accordance with standard FBI policy regarding such matters" because allegedly I had not been heard from. I was heard from in my appeal, so Mr. Hall is actually reporting a whipsaw arrangement with a servile appeals office, it fails to do its duty and act on my appeal and the FBI uses that as an excuse to wipe out my request. If Mr. Hall can send me a copy of a regulation entitling the FBI to close a request out administratively when an appeal is pending I'd be surprised.

(In all of this I am left to guess which request Mr. Hall refers to because he fails to specify it. And there are so many the FBI has ignored for so many years!)

Mr. Hall is cute in the middle of this paragraph, where he states, and I'm paraphrasing, that the only reason the records he refers to have not been processed is because I haven't offered to pay for them. His personal record, not merely that of the FBI, is not to send me the records after I write and say I will pay for them.

This leads me to his letter of the 21st to me. He begins with a euphemism, that

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he is responding to my January 23 letter to Dan Metcalfe. Well, he does not respond to that letter, which dealt with two matters and he refers to only one, and that one less than honestly. The matter he ignores is the Nosenko matter. In and of itself this raises a question about Dan Metcalfe's intentions and his wisdom in trusting his response to an appeal to the FBI, from whose negligence I appealed. It in fact raises the question, is the appeals office actually handling appeals or is it rubber-stamping for the FBI?

Even given the FBI's record of not responding when it is supposed to respond, it is out-and-out falsehood for Mr. Hall to state, "Based on your letter, we are unable to determine positively/which referrals to CIA you are inquiring." ^{about}

All Mr. Hall to do to learn is look at his own file - and he does have such a file outside the central records system and has disclosed copies from it to me. In his file he will find the letter in which he informed me of the availability of the only CIA referrals in question, the ones he referred to in his letter to me. He also will find only these CIA referrals referred to in my letter to him which, typically, he ignored and continues to ignore, after many months.

In short, he lies, and in this case on behalf of Dan Metcalfe and the appeals office. Why he lies I do not know but I can guess.

His letter to you indicates that when I offer to pay the FBI processes and discloses - and this also is untrue. The reason is that in the letter I wrote Mr. Hall personally about these referrals I was quite specific in stating a) that I would pay b) subject to my right to recover those costs.

Mr. Hall and the FBI have another problem in this, one that gives him and the FBI every motive to continue to stonewall. His letter to me describes the referrals in question as "from the Headquarters files pertaining to the President Kennedy assassination." But his earlier letter to me about these referrals state that they include records not previously disclosed to me - and supposedly the FBI had - and here perhaps it is not inappropriate to refer to what Judge Gesell was deciding - disclosed or claimed exemption for every such FBIHQ record.

Moreover, while without knowing what records are included I cannot be certain, it does appear to be within reason that these records would reveal the withholding of other FBI information pertinent in other litigation, like C.A. 78-0322/0420 combined.

I don't really know what he means by "these referrals have not yet been returned to the FBI," but the specifics in his months-ago letter to me make it clear that as of then processing had been completed.

I raised other matters in my months-ago response to Mr. Hall's letter offering me these referrals and he ignores them still.

I think it would be useful and informative for us and perhaps for the courts and the Congress to learn when this referral business began and why after all this time not a page has been disclosed. Because Mr. Hall has seen fit not to respond to my request for identification of the undisclosed records involved I am left to conjecture, but I do wonder if they include records within the matter that was before Judge Gesell or within other of my litigation and those many ignored FOIA requests I made of the FBI going back to 1969 - even those the Department promised the Senate would be responded to. How many years ago was that promise - more than five? More than the claimed backlog?

The last paragraph of Mr. Hall's letter to you raises additional questions. Included in these questions is the honesty of the FBI's and the Department's representations to Judge Green in C.A. 75-1996, which is now on appeal initiated by them. The withheld records to which Mr. Hall refers, in his own words, "pertain exclusively to Dr. King." One question is are any of these records responsive to the litigated requests or to what Judge Green directed be disclosed to me or thought had been disclosed? I was granted a complete fee waiver for at least some such records, so I ask are any of these records within that fee waiver?

Mr. Hall also states that the FBI "will . . . consider Mr. Weisberg's request for a fee waiver on the above material . . ." To the best of my recollection I made such a request in 1979 or 1980 with regard to records pertaining to Dr. King that are not within C.A. 75-1996. I do not now recall whether it was addressed to the FBI or the appeals office and I do not recall any response.

Apparently Mr. Hall and his associates still cannot miss an opportunity to contrive new means of stonewalling. This, no doubt, comes from their dedication to the spirit and language of FOIA, which requires promptness. Although for months he has had my letter assuring him of payment, subject to the right to recover, for all these referrals not already disclosed (and he had them broken down so this required no special work), he concludes his letter to me with the assurance that he will engage in further correspondence instead of simply sending me the disclosed records. Given this history of simple correspondence with him, as with the FBI before him, this merely means that he wants other letters from me that he can again ignore.

Mr. Hall has also seen to it that nobody can possibly know what he is talking about, which is in all respects consistent with the FBI's long FOIA record. For example, on the second page of his letter to you he refers to "specific materials." There simply is no way in which anyone else can know what this means. At the same point he also manages to be untruthful again. He states that as of July 1, 1980 I was told

That "customary duplication and search fees would be assessed for all other materials." In fact since then the FBI has provided me with records without asking or getting any search fees or duplication costs.

It is appropriate that Mr. Hall concludes his letter to you, in this year of Orwell, by stating that he will "comply" in "accordance with Title 5, United States Code, Section 552 (a)(6)(A)(i)..." That provision begins, "determine withing ten days. . ." My ignored request was about five years ago and, aside from all the other ignored requests, the matters I appealed to Dan Metcalfe after the FBI did not reply at all are last year's.

For even the FBI as I have come to know it and even considering the consistency of its practise of Orwell, this still appeared to be a bit too much. So I decided to consult my appeal to Dan Metcalfe to which Mr. Hall claims he responds. I learned immediately how and why he did not know what I was talking about. The first sentence makes this clear: "Attached to illuminate these two appeals is the last of a series of letters about very old requests to which the FBI simply refuses to respond at all." Understanding Orwell explains all: Mr. Hall and his FBI associates did not know what I was talking about because it was attached to the letter to which he says he responds. How could he possibly know when it was right in front of him?

Not that my letter to Mr. Metcalfe in itself did not also identify what I was talking about, which was only a letter from Mr. Hall himself. Understanding Orwell again makes it clear: Mr. Hall had no way of knowing because it was what he had written me about. "With regard to the referrals from the CIA," I wrote, "long ago the FBI indicated that they had been processed."

And does the FBI proceed in accordance with FOIA and regulations when I offer to pay? This is the third sentence in my letter to Mr. Metcalfe which Mr. Hall "responds" to: "In order to eliminate the FBI obduracy that has characterized its mishandling of my FOIA requests and despite the fee waiver granted for the Department for that information I offered to pay while reserving the right to recover the payment."

Does the FBI provide me with even what it has already disclosed, in this instance to the KGB itself? "With regard to the Nosenko request, several months ago David Williams published an article in which he stated that Nosenko information had been provided to him by the FBI for him to give to the KGB." (IN my haste to get this matter attended to I mistakenly referred to David Williams instead of his sidekick Carl Oglesby. It was to Oglesby that the FBI gave Nosenko material it gave the ~~FBI~~^{KGB} through him.)

Sincerely,

 Harold Weisberg