

To Quin Shea from Harold Weisberg PA appeal
Civil Division
FBI

9/12/80

It is no wonder that there is endless stonewalling and unnecessary litigation in FOIA cases when, under date of 9/9/80 I receive from Civil Division, which presides over the stonewalling and is responsible for the unnecessary litigation, what it represents as response to my 1977 request. (Actually, 1976.)

Not until 2/7/80, according to its own letter, did I hear from Civil Division of its referral of unidentified records to the FBI. As an enclosed copy of those records I have just received shows, that referral was of 1979.

And what I have just received is not Civil Division records but FBI file copies. Of course this appeal includes the withholding of the Civil Division copies which, if nothing else, will disclose the files that should be searched, as the copies from FBI Central Records do not.

Civil Division's attitude toward compliance is reflected on the one record that does not come from FBI Central Records rather than Civil files, the FBI memo of 8/20/70. It is annotated "WITHHOLD ENTIRE DOCUMENT." Nothing in this record is within any exemption.

It is obvious, from records I received other than from or through Civil, that it still withholds other records provided to it by the FBI and other agencies. I know because I have copies, not provided to me in response to this request.

What I have just received, further reflecting Civil's attitude, was not stapled, not in order, and had to be reassembled, where there was more than a single page to a record.

Further reflecting Civil's attitude is the fact that no explanation of the claimed exemptions is included. One does not appear to cite an exemption. It is "OS." If there is any exemption that it properly identified as "OS" Civil did not provide that identification. I am also left to guess what K& means.

It might be unfair to chide Civil for not including the usual information about the right to appeal and how it is done because, after all, what it represents as (partial)

1980 compliance with a 1977 request is actually in response to my 1976 appeal of a denied 1976 request of the Department (of the FBI in 1975) and in belated acknowledgement of your 1979 nudging.

The first of the attached copies of what I have just received is a copy of a Civil Division carbon copy of ~~the~~ ^{the FBI's} letter of an unclear date in March, 1971. I can only wonder how a carbon copy received a Civil Division file number rather than the FBI's. I also can only wonder how the FBI managed not to find this letter when it was, supposedly, complying with the instructions of the Court in C.A. 75-1996, to provide information pertaining to compliance or non-compliance with some two dozen of my prior and ignored FOIA requests.

From the content of this letter it is obvious that Civil Division had its own reasons for not complying with what the Court requested because Civil Division was involved with the FBI in not complying with the requests referred to in this letter. Giving the date of my DJ 118 form and (cashed) check, the FBI reminds Civil of its own responses to Civil. (These appear not to be provided yet.) The FBI also refers to some of my even earlier requests, so it and Civil also knew of others it failed to provide to the Court.

I remind you that Civil Division represents the Department in C.A. 75-1996, so it appears to have a reason for not complying with the request of the Court because it was involved in the extensive - and continuing- noncompliances.

The copy of the 1/19/76 FBI letter to Civil bears no file ~~number~~ ^{identification,} not the FBI's and not Civil's, yet it appears to be made from a carbon copy. It is hardly all the records of either component pertinent to either the cited appeal or the case C.A. 75-226 in district court. From the content of this letter why there is so much unnecessary litigation is apparent. (Since then, two more remands.) The Civil Division attorney did not read the published Warren Commission testimony cited in my appeal and attached to it. Instead he asked the FBI for his information and received misinformation. Does this really reflect the manner in which the Department litigates?

For your information and for the record, I provide two of the possible explanations. Where the Director reports what SA Blake said that SA Kilty said about what SA Frazier

testified to, the most casual reading of the published testimony reflects the fact that the explanation or interpretation attributed to "ilty is not truthful. Also untruthful is (page 2), "It thus can be seen that there were neither two separate spectrographic analyses nor two separate reports." If the Civil Division attorney had any familiarity with the case record, he should have known that, when some of the many spectrographic analyses were performed in 11/63 and others as late as 8/64, a single report filed in 1963 cannot possibly reflect the results of all the testing sought in that litigation.

If this is the normal manner of litigation there is no wonder that this request, first made on 5/23/66, is still in litigation after it went to the Supreme Court and figured in the 1974 amending of FOIA.

Attached next is a copy of the Johnson to Flanders 12/14/79 letter referred to above as reflecting the fact that my request ^{was} referred to the FBI in 1979. Please note that it includes reference to five Civil Division files copies of which have not been provided.

Attached next is the previously referred to FBI original marked "WITHHOLD ENTIRE DOCUMENT." It refers to an Axelrad memo not included in what was just provided.

The two other attachments are from the FBI's rather than the Civil Division's files and originated in the FBI.

The FD302 again raises questions about why there was litigation. In this case I provide an explanation that was provided to me by prior counsel.

My wife and I filed a damage suit for damages to a poultry farm we then had, a nationally famous, prize-winning operation. You have some knowledge of this from those many appeals on which you have not acted. This record reflects the fact that the FBI and the Department both knew that the allegations of our suit were correct, yet we were forced to litigate to recover part of the relatively minor amount for which we sued. This witness informed the FBI that he was present at our farm when military helicopters trespassed, that "he knows helicopter flights also cause a loss in egg production of

Mr. Weisberg's hens" and that the helicopters scared the chickens, which would "pile on top of each other" and caused deaths.

When the FBI had this knowledge, and somehow it and the Civil Division managed to withhold it from the Court while going to considerable ^{trouble} ~~trouble~~ and expenses to mislead the court, in which they succeeded, perhaps you can understand the FBI's proud boast with which it concludes the attached 5/11/61 record, "The savings to the Government in this matter totaled \$9,200.00." ~~_____~~

Savings indeed! The FBI does not include its own costs, which were great, or those of litigation, which were not inconsiderable, or the \$5,000,000 won by subsequent litigators who cited this case as precedent in the first subsequent case, which went to the Supreme Court. Or the many later awards based on this precedent, or the costs of the Congressional inquiries which, as of my last information, had not resulted in any resolution of the problem brought about by the FBI's "savings" or Civil Division's litigation of what its own records establish was an entirely legitimate claim, save that the award sought was much too modest. (Human costs appear not to be a consideration, nor costs to decency or honesty in government.)

For your further information, if I were to guess who ^{was} the witness whose name is withheld, along with much other information that does not appear to qualify for withholding, it is the man who confessed to my wife and me that he had been persuaded to testify falsely at the trial by the FBI agent who was his nephew. (I did inform the USA in Baltimore of this but naturally he conducted no inquiry, not when his records held the enclosed truthful report and he adduced false testimony, ~~_____~~ I then did not know ~~_____~~ that his own files held the truth.) This witness has been dead for years, as I informed you long ago. So are others, easily identified. No legitimate purpose is served by withholding their names.

Withheld names include those who testified as government witnesses.

While I have no way of knowing what remains in Civil Division files, because I have

copies of records obtained by other means, I know that the FBI provided many FD302s and other information that Civil Division does not provide. Among these is the vicious fabrication that my wife and I annually celebrated the Russian revolution at our farm. This is in the FBI's helicopter case investigation.

And do you suppose that with this the FBI did not provide the other fabrication of which I provided you a copy, the false allegation that I had personal relationships within the Russian Embassy in D.C.?

Several years ago you asked me to assign priorities to the appeals you would process. I then informed you that while I live I desire to be able to face all the FBI's evil inventions, distortions and misrepresentations, which is one of the reasons I filed these PA requests. You agreed. You asked for further information and, to the best of my ability and at some length and at the cost of some time, I provided it. While these requests and appeals now go back five years, you have failed to perform your responsibilities.

If I remember correctly, you and I am certain the FBI have informed the courts that these requests are processed in the order in which they are received. If you do not have any older than these they, you should have completed these before now, long before. Yet for months if not longer you have been totally non-responsive, so non-responsive that I do not even have acknowledgements of receipt.

You owe me and the country a better job-performance record than this. FOIA imposes responsibilities on you and all the other official stonewallers, as PA also does. The content of this appeal, as ^{of} so many before it, provide motive for this stonewalling and the continued abdications and withholdings and failures to make good-faith searches.

I am about to be hospitalized for arterial surgery. I should be home before the end of the month. I would like to be able to hope that by the time I am home you will have found the time for a full and fair statement of why you have failed to do your job or keep your word and some indication of when I can expect this official lawlessness to end.

Handel