

Rt. 12, Frederick, Md. 21701

10/18/77

FOIA/PA APPEALS

The Deputy Attorney General
Department of Justice
Washington, D.C.

Dear Sir,

This is an appeal from all the many denials of all of my FOIA and PA requests going back to about 1968 and a protest as well as appeal over the last set of records provided after a two year delay for my requests of personal files.

A member of your staff phoned me some weeks ago to determine if by "all" I mean "all." Thereafter I received notification that records were ready and would be sent when my check was received. This was close to three weeks ago. I sent the check promptly but the mailing of the records was delayed just long enough to deny me the use of them in support of a Motion to Reconsider in U.A. 75-226, of which you are aware. I regard this delay as unnecessary and herewith make a record of my belief that the delay was not accidental. The delay has been a serious denial of my rights under the Acts. It has been hurtful to me in a suit in which you are one of the respondents.

The covering letter, signed by Director Kelley, is as close to entirely meaningless as bureaucrats can devise. It refers me to a letter of months ago with regard to claim to exemptions when that letter does not tell me which specific exemption is claimed with regard to a specific withholding. I therefore am left with no choice but to appeal on this basis alone. If I do not I surrender my rights. What I am saying is that by this kind of playing of games you make totally unnecessary work within the Department and fail to comply and give me a choice between allowing you to continue to violate my rights, which makes me party to a negation of the Acts, or taking what cannot but be a simpler course, turning it all over to counsel and to the courts. You have deliberately manufactured totally unnecessary litigation. This being your apparent wish, I will undertake to gratify it.

This newest exercise in being non-informative does not tell me whether or not you regard what you have just sent as full compliance. Or full compliance for the FBI only. Or when I will receive responses to letters that have been without response for months relating to what has not been provided by other than the FBI in response to these requests for personal files. My wife also has received but a single response.

Meanwhile, this does not represent compliance by the FBI alone. It does give me added proof of non-compliance by other components who have made no claim to backlog. I don't see how there could have been anything called a review without someone being awake enough and bright enough and willing enough to note the absence of records referred to as well as references to existing records in other components that have not provided any records at all.

The records just provided relate incompletely to FOIA matters only. There are serials missing without any explanation of the absence of these serials. I have noted what amounts to a claim to exemption without specifying the exemption claimed.

The personal records supplied earlier contain withholdings that are outside the guidelines laid down by the Attorney General. They are totally and knowingly incomplete in other ways. I have heard nothing further relating to them except that I did receive a telephone call, I presume the same one not identified in the Director's letter, that deceived me into believing there would be belated compliance with other of the many totally ignored requests. I was told other records had been processed and were ready for mailing. Those I received yesterday are all I've received. Because there was nothing in them aside from what relates to the two FOIA cases identified in them, I fail to understand the purpose or the content of that phone call.

Months ago, many months ago, at a time that was many months after I testified to total non-compliance with some two dozen requests, my counsel in that case was phoned by

a Department lawyer and told that some of these requests had been located and were being processed. This turns out to have been totally false.

I find myself wondering what the purpose of a "review" is when the record provided clearly state that my FOIA requests have been ignored, that it was ordered that they be ignored, and then the reviewing authority sanctifies the non-compliance by doing nothing.

I find myself wondering what "review" means when it yields records referring to other records that remain withheld, files that have not been searched and from which records have not been provided, and unhidden references to intent not to comply and the means by which non-compliance will be schemed.

Aside from other comments that are now justified I want to emphasize what your people have done to the Attorney General with such overt violations of his pledges. Is he a liar? Is he a puppet of bureaucrats determined not to live within the law? Does his word and his directive mean nothing? Or is this practise his hidden intent? I prefer not to believe so.

Can any of your people have gone over the records just provided without recognizing that quite aside from whether or not there was a clear and deliberate violation of the law there was a simply fantastic waste of money and time? And that it is being perpetuated? Have you this little concern for the business of the government that requires this time and this money?

It is now well over a year since your office knew of about two dozen cases of non-compliance. In that time I have had no inquiry from your office about them. I have received compliance from the FBI for a single file well after it was released by another agency. I have received this protested non-compliance from the FBI with regard to the personal records, and nothing else except a few pages from other components that are still in non-compliance.

In what I have just received there is a clear record of my having to invoke FOIA to obtain a copy of a press release after many years of withholding. Can your people review such practise without being as aghast as I am?

Quinlan Shea once considered it appropriate to make nasty cracks about the state of my health, of which he had no knowledge, in an affidavit that is one of a series of misleading, deceptive and false affirmations. When a person of such incredibly bad taste and so little concern for decency, regardless of what he thinks of the Acts, presides over compliance with them there is going to continue to be what I regard as official lawlessness and a simply astronomical cost to the government. The records I have just gone over reflect some of this cost, all totally unnecessary, all the direct consequence of this kind of official attitude and, unfortunately, is able to isolate any higher authority of better disposition from any factual knowledge.

With these the realities you really permit little choice to those who seek to use Acts that represent the most basic of American beliefs.

I am asking Mr. Lesar to undertake to represent me in all these matters, all these requests that are without compliance on the minuscule percentage that has even been acknowledged, and to explore the possibilities offered by the punitive provisions of the Act and what remedy other law may hold for me. These and other experiences make such an effort the requirement of good citizenship.

By these appeals I am including every request I have made of any part of the Department at any time, for any and all relevant records wherever kept or of whatever form or origin. I believe my wife has already appealed. If she has not this also is her appeal. As a matter of fact I believe I have appealed and that my appeals have been ignored.

Sincerely,

Harold Weisberg