

NSA

Mr. Wm. H. Jenkins
FOIA/PA Appeal Authority
NSA and GSS
Fort Meade, Md. 20755

Rt. 12, Frederick, Md. 21701
6/17/77

Dear Mr. Jenkins,

Serial N 9108 B

I regret your persistent evasiveness and non-responsiveness in your letter of 6/10/77.

As I have reminded you all searches are to be in good faith and with due diligence. I have asked you if the search, which you have described in such terms as to be without real meaning and subject to many interpretations, included all files and records of any nature relating to the interception of communications and whether all records of all related agencies were searched. You continue to refuse to respond to what I regard as a perfectly proper request. You thus make it difficult to believe that there was a good-faith search and that due diligence was exercised. Otherwise why not respond?

Now I did not make requests frivolously. I have specific knowledge of such interceptions. I have accounts from those who saw some. It is, as you must know, a matter of fact established before Congressional committees that there were such interceptions. This testimony describes regular procedures that include some of my communications.

When you add to this, which is not all, the fact that you had and denied having a record identifying me as having been in some kind of contact with what are called foreign agents and that in connection with some concept of "national security," there simply is no possibility that I was not of interest to your people.

Your agencies have in fact hired CIA experts in these domestic-intelligence matters, more of them than publicly identified. Certainly not to train these experts for new tasks.

Of course I can go to court, as you told me. But this is not the intent of the Acts. Litigation is a last resort only. The Acts and court decisions impose the good-faith and due-diligence requirements on you that you have not met - refuse to meet. I have other alternatives you have not mentioned. I can go to Congress and ask to be heard. But I want no avoidable litigation and want to take no time from my work for other unessentials. All I want is compliance. You avoid it with shallow semantics.

You are even equivocal in referring to my 6/1/77 letter, saying it "may constitute a new request" and that if I "intend this to be a new" FOIA request to start all over again at the bottom. This is stonewalling. You say I do not ask for identifiable records. You do not say how my request is unclear or that the records sought are not identifiable from the request. As the request related to publishing in various ways relates to me it clearly is not limited to FOIA, and I did not so limit it, and it clearly is included in my now very old request. Here also the Congressional evidence leaves no possibility of doubt that records exist.

If you interpret the request or any part of it as a new one I believe that under the Acts you are supposed to refer to the proper authority. I ask that you do this. I include a carbon of this letter for your convenience in this.

Recently I heard a judge declare that from his experience an applicant does not get compliance from the intelligence agencies without suing them. I regret this is true of my experiences as I regret that it represents an authoritarian and lawless state of mind in these agencies. The irrational dedication to a perceived need to behave illegally and then to violate an Act of the Congress designed to make all such records available differs in degree but not in spirit from the practices of the foreign authoritarianisms. It is anything but authentic patriotism. I am aware of the temptations of excessive zeal from my own earlier experiences. That the agencies, which serve essential needs, have not come to understand that they endanger themselves by such behavior is tragic. It has already damaged them more than any foreign enemy. I do regret this much. Sincerely, Harold Weisberg