

Mr. Charles Hinkle, Director FOIA Review
Department of Defense
Washington, D.C. 20301

Rt. 12, Frederick, Md. 21701

4/17/77

Ref: 77 DF01-118 JPA 460

Dear Mr. Hinkle,

Enclosed is a copy of the USAF letter to my wife by Col. Michael J. Barrett, Jr. stamp dated 13 April. I intend it as further illustration of the problem I tried to address in my recent letters to you. I am sending Colonel Barrett a copy of this letter.

I can't tell you how many times how many different people in the Air Force denied having any files in response to my requests and correspondence.

There has not been any response to my requests from the Department of Justice and they go back quite some time. But my wife filed a request and received fairly prompt response. Even when my name appears prior to hers on the records she has been given.

The records Colonel Barrett sent refer to Army files. Yet the Army for years had insisted it has no records on me. Even though it handled the litigation for the government and I informed it (as well as Air Force and other components) about this litigation.

These records now provided refer to others still not provided. This is a search? Or compliance?

It is common experience to have the existence of records denied until some agency finds one it asks to have cleared. Then the denying agency has only this one record it denied having earlier. Even if others are referred to.

It is also common experience to have the existence or records relating to me denied even after they are supplied to others who inform me of it.

The totality of inaccuracy, misinformation and non-compliance is staggering because of the number of agencies and components all of whom have the same records of non-compliance and incredible stonewalling.

I take this time not only in the hope that if belatedly the DoD will interest itself in its procedures and in providing us the records we are entitled to but because of the favorable manner in which my friend George Gardner wrote about DoD intent in meeting the requirements of the ~~Act~~ Acts. (Colonel Barrett limits my wife's request to FOIA. She also invoked PA and the difference can be considerable.)

If for a moment you think I am exaggerating you are welcome to access to all of my files and not only relating to DoD.

Nobody is being honest. I mean this to include the Department of Justice and the Civil Division in particular. It could not, for example, have found these few records from a very large file without having seen at least some reference to the discovery materials provided it by the Air Force. I have written you about those materials.

The sixth of the enclosures is one of the records that can address motive. This is but a single one of a large file on that subject. It also gets to what I have said earlier, that if the government has any interest in how for special reasons its agents defraud citizens these records will establish that. The supposedly scientific test cited is but one of a number contrived to defeat legitimate claims from aviation noise. After all these years I recall enough about Stattleman's. It was invalid as it relates to helicopters because there was continuous recorded sound and because this sound did not duplicate that made by helicopters. The discovery material holds other illustrations, including of how legal officers were deceived and misled. As well as references to the existence of Air Force records on me having nothing to do with this litigation.

This, of course, also gets to real reasons for official opposition to these Acts. They make possible the exposure of official misconduct and the ending of secrecy about them. They can make punishment of miscreants possible.

You have taken the position that I must make a separate request of each component. I have told this is not only impossible but destroys the meaning of the Acts. Well, as an example of what I face examine the number of agencies indicated but not identified in Colonel Barrett's letter only - and he refers to but six records in a very, very large file. How can anyone possibly do as you ask of me?

The Acts require due diligence in good faith. Colonel Barrett goes out of his way to allege that the records can be released because they are "factual," hardly an accurate description of the attached Crawford memo or a proper standard, but he does not report a search of the files of the component of which he is part. If those files do not contain relevant records those files are meaningless. My dealings with AF JAG were extensive and there were claims and there was litigation and precedents were involved. Can you believe I am a stranger to AF JAG files?

If I can understand how the colonel as an individual might not have felt required to consult his own files I cannot understand how there can be compliance if nobody does and each one says ask somebody else. Where does the buck stop? Who gives a damn about the law or our rights under law?

In my view I have done more than is required of me. I have asked for identifiable records. Where I could I went farther and identified them. I have indicated how they may be located, where they may be found, where, when and under what circumstances I saw some and all else I thought could be of assistance to the government.

If it is a needless burden on the courts, the government and on me to sue it should be apparent to you by now that it will be less costly, less time consuming if I just go ahead and sue. Amathama as even the idea of it is to me, despite the need and my not inconsiderable experience in having to sue to obtain what I should never have had to sue to obtain.

Is there no single person in the defense establishment whose stomach can turn in revulsion? Our requests include litigation that involved precedent, that were the subject of Congressional hearings, that reached the Supreme Court. The Secretary of Defense was personally involved, interested and compassionate. He involved the general counsel of DoD (who has written me he has no reference to any record). At the behest of the Secretary the general counsel assigned a member of his staff to seek to safeguard my wife's interests and mine. An Assistant Secretary sent a member of his staff to visit us in the course of preparing a written and published directive that was published and is in print. From all of this and much more you have not provided a single record!

The emotion this arouses in me reminds me of other and still-withheld records. It may interest you. It may amuse you as it does not amuse me.

The intrusions over which we sued were ruinous - in the end did ruin us. They also presented some jeopardy to my wife. This is what triggered the Secretary's interest. We filed and won a suit, the Secretary directed that the intrusions cease and they persisted and increased. Once when I was not home my wife, in accord with regulations, phoned a report to the closest military base. She was threatened with prosecution as a common nuisance. I was outraged when she told me this and I made a strong protest. At one point I stated that I had done everything I could think of except shoot one of the helicopters down. To this your bureaucracy did react. It began by turning this around to have me saying I would shoot one of your choppers down. (That would have been quite a feat with my weaponry, consisting of a single-shot .22 I sued for killing rats!)

How the misdirected machinery of government then worked!

I don't know what your records show on this. I do know what Secret Service records show. Yes, this is the same Secret Service that says it has no records on me.

How could it possibly have any records on me when this was twisted into my having made a threat against the President, who flew in your choppers?

So the federal government had State authorities watching me, even when I worked in my woods.

How can there possibly be a record?

You once wrote that you could understand a feeling of frustration on my part. If the foregoing does not persuade you that you really cannot, perhaps this sequel will:

When even the Secretary of Defense could not stop what was ruinous to our farming I was past 50. I returned to an earlier life, writing. This is, of course, a sedentary kind of life. In time, from orthopaedic problems, my permissible exercise was reduced to walking. I live in an area in which city people drop their dogs when they want to dispose of these dogs. Some of these dogs turn into killers. Of animals and of people. Animals as large as ~~xxxxx~~ cattle. There are also people who keep vicious dogs in the illusion they are a protection. After a fortunate escape from attack from such dogs the State Police told me to carry a pistol when I walked and I did. There were some close shaves but I was fairly safe.

Then Maryland enacted a gun-control law. I met the requirements for a permit but I was denied one, without a hearing and without an explanation of its denial.

I live toward the bottom of a mountain. To be able to walk I must go up to begin with. Unless I am to walk in circles. So my walking was reduced and with it the exercise, including to the circulatory system. With this reduction in exercise of the legs and the circulatory system in them there developed acute thrombophlebitis in both of my legs and thighs. If I cannot show a cause-effect relationship there also is no surgery or injury to explain what was serious and beyond remedy when discovered.

But there is a cause-effect relationship between my reduced exercise and this utter insanity, this complete fabrication of my alleged having threatened to shoot down a helicopter when with a spitball I would have had about the same capability.

You may think you understand. I doubt it.

Sincerely,

Harold Weisberg