

Mr. Stephen Klitzman, Counsel
Subcommittee on Administrative Practice
U.S. Senate
Washington, D.C.

7627 Old Receiver Road
Frederick, Md. 21701
6/10/80

Dear Mr. Klitzman,

If your subcommittee's hearings and Report, and particularly the footnote on page 71 of the Report, have had any effect, it is the redoubling of the non-compliance efforts accurately stated in the footnote. The Civil Division in particular has intensified its efforts aimed at frustrating the Act and, as FBI records I have obtained state as its intent, "stopping" me and my writing.

Some of the dirty tricks it conceived are, I believe, without precedent. It even coerced me, through the judge in C.A. 75-1996, to act as its consultant, promising to pay me, then ignored all my work and refused to pay me anything at all. The judge, who has made a frightful mess out of that case, now refuses to act on my request for payment until the case is over. This is overt blackmail, because there is nothing I can do to end the case except capitulate to non-compliance. It is so bad that as yet the items of my 1975 requests have not been searched and Civil Division presides over this refusal.

I've caught them providing phoney documents to the Court, using unindicted co-conspirators as affiants, proven their affidavits and other representations to be false, and none of it means anything.

As a minor example I enclose a renewal of appeals of today's date. If I had referred to all pertinent records their extent would be about twice as great. Of course, all are available if anyone is interested in safeguarding the Act.

There is a new development of which I want you to be aware but I ask that you exercise care to avoid retaliation against my source. It has been decided to "do a number" on me. I have no details. I understand that those who plan this are high-level Civil Division and the FBI, higher than the FOIPA Branch. Whether or not connected, this appears to have followed the newest remand in the old spectro case, the one over which the investigatory files exemption was amended in 1974, now C.A. 75-226 in the refiled case.

Sincerely,
Harold Weisberg

To Quin Shea from Harold Weisberg, re JFK and King assassination records 6/10/80
My appeal and communications referred to in it, 4/20/80
Field office and HQ records
Referrals
Refusal to specify exemptions claimed
Withholding the public domain
Amending FOIA?

For your convenience I provide a copy of the 4/20/80 appeal and the attachments. These are my FOIA request of 1/29/80; the FBI's February reply (the ink of the stamped date is not picked up on copying); my 2/15 response, copy to you as appeal with amplification of the same date; the FBI's non-responsive letter of 4/18.

I believe that the matters in question, the FBI's handling of them and non-responsiveness and your failure to do anything on appeal make this a simple and readily comprehensible illustration of the combined FBI/Department campaign against me, my requests and the Act itself. They represent abuse of requesters and the Act that is not accidental and the deliberate wasting of time and money to artificially create cost figures that are dishonest and are then used to persuade the Congress that "relief" is needed.

I refer to the Congress and to the campaign against the Act because I am giving serious thought to doing what to now I have not done, calling the FBI and Department actual record, as distinguished from its representation, to the attention of the Congress. If this combination is going to continue to implement the 1967 decision to "stop" me and my writing, as reflected in these communications, this may be the only means by which I can contest it. Much as I would prefer merely to do the work I have undertaken.

Coinciding with this stonewalling of referrals in the JFK case there was a question of referrals in C.A. 75-1996, for King assassination records. I filed a Motion for Partial Summary Judgement pertaining to some of these referrals. The Department's response, for the FBI, was that the FBI may not provide referred records directly. This is disputed by the FBI's record.

These referrals were in 1977 and early 1978. When I did not get them I filed the new

request, which asked for a list of all referrals and what remains ignored, "all other records pertaining to them, including if any, its (the FBI's) efforts to persuade the other agencies and Department components to act on them."

My many earlier appeals were ignored. Not until I took this step, that could lead to simpler litigation, did the FBI inform me that "We are currently working on the referrals which have been returned to the FBI and you should be receiving this material in the near future."

This was with referrals of two years earlier, under a 10-day Act.

As the FBI's accounting reflects, even then 678 referrals remained - and remain - ignore, after two years or more.

As my letter of 2/15/80 states without contradiction, some of these referrals had been acted on and returned to the FBI more than two years earlier.

Traditionally, the CIA is the biggest stonewaller. In this instance it has 479 referrals not acted on. This is the same CIA that demanded of the Congress, "Trust us." The same CIA that is stonewalling requests and appeals going back a decade and still has not complied with my JFK assassinations requests of 1975. The same CIA that operates a reciprocating Catch-22 on FOIA with the FBI.

Contrary to the representation in C.A. 75-1996, that the FBI may not provide referred information directly, it sent me 2,511 pages of referrals on April 18.

Some of these referrals are of about three years ago. Even now the FBI has gone out of its way to make it impossible to know what exemptions it claims. It withholds what the other agencies disclosed and what it disclosed itself. It withholds also what the Warren Commission/disclosed. And all of this and more in the face of the Attorney General's and FBI's boast of making all public.

As you know, I have requests that have not been complied with in more than 12 years. FBI and Departmental intent are obvious and in direct contradiction of what the Congress was assured. So while it may be that nobody will want to review four file drawers of pertinent information, shorter records might present no problem. It is for my own filing that I include the new caption, "Amending FOIA?"

RE: Outstanding Referrals:

On Feb. 13, 1980 you received the inventor worksheets on all referrals on Kennedy at Headquarters. You appealed this to both Mr. Shea and Mr. Flanders on 2/25/80. The release of referrals on 4/18/80 represents those on the worksheets that were listed as released. Therefore, there still remains: 479 outstanding CIA referrals, 132 outstanding State Department referrals, and approximately 67 miscellaneous referrals outstanding, for a total of 678.

2. The documents released on 4/18/80 did not include any referrals for 62-109090 although the worksheets provided on 2/13/80 did indicate that some were available for release.
3. There are also some referrals in the Marina Oswald HQ file - 105-126032 - that you have received nothing on.

To gain Shea from Harold Weisberg
JFK assassination records appeals
Field office and HQ records
Referrals

4/20/80

Withholding of the public domain - what the Warren Commission published
Failure to specify exemptions claimed - really refusal to specify
Withholding of referred records for two years

Under date of 4/18/80 I received from the FBI 2511 pages of referred records pertaining to the investigation of the assassination of President Kennedy. I have begun to examine them but have laid this aside because the records require reprocessing because in the processing the FBI has again indulged in Cointelproing, its FOIA dirty tricks.

Of course this is not all the referrals. The FBI's letter is careful to never the FBI on this while also being careful not to inform me or anyone else regarding its covering letter. A glance at the worksheets discloses that the CIA has not acted on the referrals to it, after all, it was only in 1977 that the records were referred. With all the intelligence disasters it has been required to arrange so that it, like the FBI, could attribute failures to the FOIA, it has not had time to process referrals. Moreover, the CIA is stonewalling its own compliance pertaining to JFK assassination records. It has yet to comply with 1975 requests for them. (Not its record - I have a 1971 request not complied with.) Of course it was only a President who was assassinated when in theory these agencies were to have prevented it by their superior intelligence operations, that President to boot, and he is dead anyway, isn't he?

If you examine the worksheets you'll find that the dates the referrals were acted on by those who did act on them is stated, Department of Defense, 1-25-78; State, 2-17-78; Secret Service, 4-17-78, etc. Why the FBI stonewalled for two years and more in providing copies of these referrals I do not know unless it was either the time required by preparing and filing false, deceptive and misleading affidavits with the courts or the time required for its campaign against the Act or the time required for its puffery, like having its agents who are engaged in supposedly dangerous intelligence operations against suspected political murderers (page 7) appear on 60 Minutes, (without TV claim.)

Of course it also required some time to go around trying to ^{corrupt} ~~mislead~~ public officials while making it appear that they were not entrapped. And more time to cut the TV nets in so they could have their cameras in place to film the supposedly secret goings on.

Whatever explains it, these records were referred in 1977, according to the original worksheets and the referral slips with the underlying records.

If you compare the worksheets for these referrals with the referred records you will find that no claims to exemption are posted on the records themselves but that claims are indicated on the worksheets. This means that nobody outside the FBI knows what claim is made for what withholding.

In only one case up to Serial 1200 is there a single claim to exemption. If only one exemption is claimed then it is obvious that the withholdings are attributed to it.

But take 1254. It was referred to the Secret Service, which claimed (7)(C) and (D). The FBI added a (b)(1) claim. But there is no way of knowing what withholding is attributed to any one of the three claims.

Most of the withholdings have two claims made for them. The FBI knows it is supposed ^{post} to post the claim at the point of exemption and ~~it~~ when it had to in the past it did. Unless it does there is no way of knowing what is claimed, the requester has no rights and the Act has no meaning. ^{Our} own affidavits attest to the fact that the FBI has erred in more than half its withholdings.

I don't want to waste time having to reread these records so I will not examine the rest until they are reprocessed and I can know what exemption is being claimed. It appears that there will be a substantial number of questions because the large number of other claims, like (7)(E).

And who knows, maybe by these other agencies, not only the CIA, will have acted on referrals. ^{Like} the Archives, which has no backlog.

In what I have read it is quite common for the public domain to have been referred, withheld by referral and then withheld by the usual FBI stonewalling of two years. ^{This} includes what the Warren Commission published, referred to State on several occasions.

And these are unclassified records at that. Like an account of Oswald's pretended renunciation of his citizenship in the Moscow Embassy, by the one who testified to it before the Commission and whose reports are made available by the Commission. Or like the Keystone ^{Ke}ops business of several reports of the Mexican closing of the border to help the FBI catch the assassins. The border was closed briefly by the Mexicans 11/22/65, not by the U.S. One of these reports is dated 11/25, or three days after the border was reopened, the other the night of 11/22, or hours after it was reopened. Both allege it was closed at the time the report was written.

~~EXAMPLE~~ The FBI is not averse to withholding what it disclosed as well as the Commission, like 472. Both did disclose what is withheld there, in 1990 yet.

Because of its earlier ~~Central~~proving that "previously processed" dodge, the FBI has also involved the field office records in this sordid business.

Need I remind you of what this kind of withholding means for that rather large project, the case index, the enormous costs that can be wasted, including by prolonged litigation and endless reprocessings?

These kinds of dirty tricks do waste requesters, the courts and all others and they are an effective part of a long-standing campaign against the Act and requesters. However, they are indecent and historically they will be a self-indictment by the FBI.

And however slight, there is always the chance that someone who will be heard may take an interest.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

APR 18 1980

REGISTERED

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to our letter of February 13, 1980, regarding the outstanding FBI Headquarters (FBIHQ) referrals.

Enclosed are 2,511 pages of documents, along with corresponding inventory worksheets, from the FBIHQ files concerning the assassination of President Kennedy. These documents are a portion of those which had previously been referred to other government agencies for a determination as to their releasability in connection with your Freedom of Information Act request.

Some agencies have not as yet responded concerning the releasability of their information. Upon receipt of a reply from those agencies you will be advised as to their releasability.

Sincerely yours,

David G. Flanders (ml)
David G. Flanders, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Enclosures (19)

To Mr. Shea and Mr. Flanders from Harold Wedsberg 2/25/80

I wrote you both on 2/15 when my wife and I were busy with a long affidavit. Copies were not made promptly, this matter got pushed aside and was overlooked until today.

I regret the delay in getting this in the mail.

Harold Wedsberg

Dear Mr. Shea,

2/15/80

1/28/80

I provide the attached copies of my ~~2/13/80~~ request of the FBI, its 2/13/80 non-response and my reply of today's date as my appeal in this matter.

I would also appreciate a review of the claims to exemption, such as (E) and the total withholding of records without a competent statement that nothing is reasonably segregable.

Also, some records are entirely undescribed, without any claim to exemption for the description.


The dates combined with the claims to exemption, as 1977 records and an (E) claim, are quite provocative. With regard to an airtel to Alexandria and this (E) claim I can only wonder if it pertains to Bernard Fensterwald.

If it has to do with the FBI's disclosures of its general JFK releases, then the record is within my request being litigated as C.A. 78-0249. Or, perhaps, his litigation. But an (E) claim for either? My, my! Would it not also be within my C.A. 75-1996, in which I provided his privacy waiver?

Does the Department really want to spend money and waste the time of FOIA personnel by referring records the FBI intends to withhold in their entirety regardless of the result of the referral?

I have previously informed you that the FBI did not get around to making some referrals until 1978 and that most of the agencies involved have no FOIA backlogs. But they should have been made in 1977, as early as July of that year.

Sincerely,


Harold Weisberg

Dear Mr. Flanders,

2/15/80

Your letter of the 13th, with attached worksheets supposedly accounting for all FBI referrals in the JFK assassination record, came today. I am occupied with a long affidavit so I asked Ms. Rae Barrett, who assists me on a part-time basis to examine my letter of 1/28/80, to which you state you respond, and the status of the referrals.

You do not respond at all to a large part of my request, which deals with such matters as records of the FBI's efforts, if any, to get any action on these referrals of records now more than two years overdue under the Order of the Court in C.A. 77-2155.

With regard to the accounting you provide of the referrals copies of which have not yet been provided to me, it appears that as best Ms. Barrett can make your ~~the~~ incomplete accounting out there are at least 678 referrals of records you have not provided to me. Of these 479 are referrals to the CIA and 132 are referrals to the State Department. Both agencies are long overdue in complying with requests I have made of them.

I can only imagine what the situation would be if the FBI had not boasted so loudly that it was disclosing all and if it were not providing these records under a court order.

It also appears that after records were returned to the FBI by other agencies the FBI decided on total withholding. This makes the initial referral a total waste of time. With regard to such records Ms. Barrett has pointed out to me that you have withheld entire records under claim to (b)(7)(C) and (D) without any attestation that nothing is reasonably segregable.

And there are unexplained entries.

Will you now please respond to my request and indicate when I may expect these 678 or more records?

Sincerely,


Harold Weisberg



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

Mr. Harold Weisberg
Route 12, Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

This is in response to your letter dated January 28, 1980, regarding outstanding FBI referrals from the records on the assassination of President John F. Kennedy.

Enclosed are the inventory worksheets for the headquarters referrals. The documents without a date or exemptions indicated to the right are those referrals which are still outstanding.

We are currently working on the referrals which have been returned to the FBI and you should be receiving this material in the near future.

Your continued patience and understanding are appreciated.

Sincerely yours,

David G. Flanders

David G. Flanders, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Enclosures (4)

FOIA/PA Branch
FBI
Washington, D.C. 20535

1/24/80

FOIA Request

Dear Sirs,

When I read fewer than 10 sections of the FD-302 file, which I expect to do within the next few days, I will have examined all the FBI's records relating to the investigations of the King and President Kennedy investigations, including all provided from the field offices, perhaps 200,000 pages. Rather all the records provided to me in those cases, for some have been disclosed to others without copies being provided to me.

There is a large number of referrals, particularly to the CIA. The CIA never acts on referrals in these cases without compulsion. In the King case it acted on none until I filed suit for its own copies and not then until a calendar call impeded.

It has been two years since you provided me with the JFK HQ releases, as ordered in C.A. 77-2155. In all that time I have not received a copy of a single CIA referral and not had any response to any of my many inquiries. Meanwhile, the CIA has continued to stonewall compliance with JFK records requests, mine dating to 1975.

As you know it is not possible for a requester to have a record of all referrals to all agencies. Some have acted on those to which I refer, others, like the CIA, have not. However, the FBI has such lists and can provide copies of them and of all other records relating to referrals, including, in any, its efforts to persuade the other agencies and Departmental components to act on them. (In fact Departmental components have not acted on referrals from the FBI.)

I therefore request copies of any and all lists and other pertinent records as referred to above.

Sincerely,

Harold Weisberg
7027 Old Receiver Road
Frederick, Md. 21701