Dear Jim, Quin Shea's yesterday's letter and my response 3/3/78

If he can quote an old friend of mine I can quote myself to you. Something like if we have a short 2x4 and the head is on a very big jackass we have to wait until we force the head down before we swing at it.

The head is coming down. And I think it would be better if we do not have to swing.

Time will tell.

We've had 8 inch es of snow - veryfine and oh boy if the wind gets up! So I've been shovelling, beginning from the back door. I'll have to do as much of this as I can now that it has stopped snowing. That time will give me time to think a bit more.

I'm not going to reread his letter now but I do believe he has confessed that except under some circumstances there is no such thing as a real review of what the FBI does. They reverse the FBI half the time - where they look at a record. But where they don't? And this means almost 100,000 JFK pages. Make a note of this for any 2155 appeal and other uses.

I don't think he lies. I think he is overly-dedicated and under-informed, as in not appearing to know that his office is supposed to have reviewed every King record I've received.

You will find other unintended confessions I did not call to his attention.

Unintended? Astounding!

There were reasons. I could have responded to them without justifying criticism. But I think he'll accept more from a fellow lawyer. And I think he may be willing to be more concilliatory. It serves all interests if we can work solutions out where they are possible.

First please take up with him those initial 40,001 FBI JFK pages. If he declines suggest that he get a transcript of the Gesell hearing and ask him, if he says he sees nothing in it, if he'd like me to show him what is in it and what it can mean to the Department if I have to use it in court, to get those records.

If he does not agree we lose but a few minutes. If he does agree we can move ahead with what I can show him. That simple. And if he is any kind of human being he'll understand that it is a real favor not to beat them all with that 2x4.

There is some progress in this. He has at least seen this 2x4 I've been talking about. I take his recent letters as indication he does not like it. And that he is not used to what we did to him in C.A.77-2155.

Best,

Mr. Quinlan J. Shea, Jr.
Director, FOIA/PA Appeals
Department of Justice
Washington, D.C. 20530

3/3/78

Dear Mr. Shea,

The promptness with which your letter of yesterday reached me will not make Lynne Zusman or Bill Schaffer happy. I had finally gotten to where I could begin the dictating I've been supposed to do and have really been struglling to get to be able to do.

However, when you quote Joe Borkin I have to drop everything and give your letter prompt response. In fact, I guess I have to coin a phrase for the occasion: if he knows Joe Borkin maybe he can be judged by that rather than what he does and says - if he is an official.

Were you weeping on his should or reviewing some of the supposedly non-existent records that I'm finally going to get?

(You might get some Brownie points and I think could do the country some good if you could sake out of some dusty files some of the records I gave DJ through Joe of his associate Hodges, particularly the patents registered to Jasco. They do relate to the present energy situation/crisis.)

I don't know how much Joe remembers. I have less trouble with four decades ago than with last week. But if he did not tell you he made an unregistered British agent out of me before the Nazi attack on t e USSR then he did not confess all.

The timing above has a special point: I know the FBI is convinced I was and probably am some kind of dangerous red subversive but Joe knows what I was doing during the period of the Nazi-Soviet pact and the two are incompatible. Besides, I was researching a book on the Dixs UnAmerican Committee and was a friend of a guy Hoover had fired, now I hear a criminalist, Mike Fooner. (Ear specialist, I think, identification by some kind of ear-print.)

In those days I did do a fair amount of original work on Nazi cartels. I gave all of it to DJ. Only some of it duplicated what they had done. Where we were both onto the same things, as with Rohm & Haas, I got what they didn't have because I got a director to talk.

I'm anxious to get those kinds of records for other than personal reasons. I think they are of historical importance and can be of value to collegiate minds. I want to make them available. I have no other interest in them, not now. No time to do anything with them.

Rohm and Haas had a connection. He had been district attorney and has recently retired as Senator Hugh Scott. He was then a Congressman and on the Patents committee. They held a "hearing," in secret as it turned out. Fortunately, by then I'd had some experience with Martin Dies et al/ and with the FBI so I was able to take a few precautions. I knew one member of the committee and he was there. At the hearing I became friendly with another, one of my unknown fans. He read and liked my exposes. In the end the nazi-befriending did not dare print the transcript. But they made it available to Rohm & Haas. The corporation excerpted it out of context and distributed it to key accounts. On the latter Joe was my source, so I know there were records and that they should still exist.

I believe that I mentioned the name of Walter Gallagher in connection with searches in old Criminal Division files. The last time I saw Walter was at that hearing. He was then in Brien McMahon's law firm and it represented Rohm & Haas.

In the end I prevailed. The corporation and its subsidiary Heginous Products and Chemicals Corp., were vested as enemy property. This was the history of several other Nazi fronts I exposed.

Your mention of Joe and of the "New Deal" opens memory's floodgates. I did have much to ~~kkk~~ do with the Department in that era, in various capacities, including no formal one, and I would like very much to have the records to deposit with my more recent work.

One of the FOIA requests to which the FBI has never responded is for the records it withheld when it returned my Silver Shirt file to me.

The Dies gang set me up with th Washington representative of the Silver Shirts, David D. Mayne. He did forge a couple of pages out of an entire large carton of records. What was not forged related to a plot to overthrow FDR. It included an extremist Congressman named Thorkelson and the then chief of Staff, General Malin Craig. Not long after I gave the FBI these records the general retired.

The FBI also never returned the affidavit attesting to the authenticity of all the records I obtained from Mayne.

I have not been able to obtain any kind of record relating in any way to this, not from it and not from Criminal. Under considerable pressure from th Dies gang Criminal did try to indict me.

Shake them up and you can avoid an unnecessary lawsuit. I will sue if I do not get these records. They will have to include the false statement the FBI tried to get to me sign, a fake confession.

It i to avoid needless litigation, for which there may yet be an accounting I would not want to have to face were I in DJ, that I have spent as much time as I have in writing letters. It is not to bypass Jim Lesar. He stays much too busy and I cannot pay him. But he did tell me I should not be writing about what is before a court.

In the spirit of your letter and because he is right now in Mexico City and I can't consult him I call a factual error in your letter to your attention.

Your office <u>did</u> review the King records C.A.75-1996. It will give me no particular joy to clobber you over it. But the unthinking attitude I face and what I presume is a still permeating fear of the FBI is going to give me no choice. If the FBI flashed some of its fabrications and distortions relating to me I suppose that also had some influence.

I don't know how much internal communication there is in your bureaucracy but what follows is what you would have known if you had not been unavailable the first time Jim took me to Lynne Zusman's office.

Much of what your office approved to be withheld is public domain. It remains withheld despite my providing copies of the proofs. From newspaper stories to books, including my book on the King assassination. Even the contents of the phone book for New Orleans. Among the proofs I provided were copies of those pages from my book and the phone book. But to date only one page has been replaced - the withholding of the name of an FBI agent from a ~~xxxx~~ news story. If Jim had not ridiculed John Dugan over this in court I doubt that even it would be the exception. These are not exaggerated illustrations, believe me.

This kind of thing is not limited to FBI records, either.

If your concern is about complaints from Jim over your writing directly, don't worry about that. But I do suggest that you worry about what you may be led to say that may not be accurate. Jim will get your letter when he returns. If I'm not snowed in, as I am right now, I'll be with him on the 7th, when we have a status call in C.A.75-1996. Whatever he agrees to assume that I also do. I do suggest, however, that even at this very late hour some informality and some official ear open to my words will save much time and

money if not also official e,barrassment.

Jim and I are aware of problems on internal communication. We have even used some in court. As FOIA requests may get lost, as you say happened, so also do lawyers merely sit on records and not forward them. But nei ther gets around the formal decision not to comply with my requests. If you have not been informed, this also is in court records. If Hoover did not order it we have his written approval of it. Thus more than two dozen remain without compliance. I testified to this in Septe,ber 1976 - without subsequent compliance. It is the list from which I testified that I told Ms. Robinson I would do what I could to help her. The list may well be incomplete.

While I readily admit that there are some requests, including some of my requests, that can not be complied with in 10 days I disagree entirely and very strongly with your statement that it is impossible. What makes it impossible is a mind set against disclosure. Some of my requests were for a single record. Retrieving from files to meet such a request is no big deal.

As long as this attitude exists compliance will be a problem and a great cost. In my experience, which by now is pretty extensive, the attitude dominates all.

If the attitude ever changes I think that from my experience and Jim's we can be of help. Speaking for myself, I'm willing to take that time. As you say, any improvement is an improvement.

I won't be able to get to the celebration of the New Deal tomorrow. Nor to the smaller one of those of us who survive my Senate investigating experience on Sunday. I'd like to see how many retain that previous feeling of urgency in serving the nation's need so many of us felt during the Great Depression and the war years. And I'd like also to see some who were friends.

Our letters crossed or you'd know I thanked you for your Hiss-Rosenberg files initiative.

If any of this is not comprehensible I hope my wife will have time to read and correct it. We have a ffesh 8 inches of show and I can attack it for only brief periods. They have interrupted this response.

I do appreciate the time you took for explanattion, even if the ptactise was not as well known to you as the policy that was not always followed. We'd both be better off if we could have begun this way.

Sincerely,

Harold Weisberg

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

MAR 2 1978

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

Dear Mr. Weisberg:

This responds to yours of February 27 -- I am pleased that you found mine of the 21st pleasant and a surprise, if not a pleasant surprise. As our mutual friend Joseph Borkin might say, any improvement is an improvement!

Taking your points in order, I can only communicate with you on a matter in which you are represented by counsel, through that counsel. My "technical violation" regarding the worksheets matter -- now a lawsuit -- resulted from the fact that I didn't know there was a suit (I received my copy of the complaint one or two days later) and it was unclear whether you were handling that aspect of your case yourself or through Mr. Lesar. As to administrative matters pending in this Office, I can certainly write directly if your counsel, Mr. Lesar, knows and approves of the practice. As you indicated in a recent letter to Lynne Zusman, there are certainly aspects of this whole thing as to which it is rather hard not to deal directly. If Mr. Lesar has no objection, we can write directly (I will send him copies of my letters). Let me know what he says about it.

Within the next week or so I will try to locate copies of the rough transcripts of my two sessions before the Abourezk Subcommittee and will send them to you.

I was unaware that the F.B.I. has released worksheets in the past. Thank you for bringing it to my attention. I will certainly keep it firmly in mind as the Bureau and I "contest" both the overall (all cases) issue and as to the Kennedy worksheets. I will also explore the point you raise, of marking the exemptions on the released documents.

There seems to be some confusion about what my staff and I do, and when we do it in different kinds of cases. If the Bureau has made its release and you appeal on the merits, we

review all or a representative sample of the withheld materials and either affirm, hammer out an agreed modification, or reverse (in whole or in part). If the Bureau has not made its release (or decision to deny) before you appeal, all we do is keep an eye on it to ensure more-or-less that the matter doesn't get too lost. We do not do a review before the initial release (save in very rare cases, usually involving court-imposed processing deadlines). If you are dissatisfied with the release on the merits, we will take an appeal and relate it back in terms of priority to the date of your earlier "no response" appeal. So we have not actually reviewed the Kennedy records as released by the F.B.I. We are always available to the Bureau for consultations, and we make a special point of trying to help on the big historical cases (selfish interest -- the better the initial job, the easier the appeal review if there has to be one, as is usually the case). As I said in my letter of the 21st, I am treating your letter as a "protective appeal" extending to any and all records, exemptions, etc., as to which you finally decide to appeal after the worksheets issue is resolved. I hope this is clear, because I have a feeling you think we have done jobs badly when, in fact, we (the Appeals Office) have not done them at all. I get enough criticism for what I do do, that I can't stand any extra for what I don't do!

As to the time limits in the Act, they are so unrealistic as to border on the bizarre. This Department doesn't distribute its mail within ten days, and we get so much that our initial sorting, logging, etc., kill the rest of the first month. And things get "lost" in the pile -- if you're interested, that is what really happened to your fee waiver request on the Kennedy records. I haven't figured out who did it, or even when, but it got stuck into one of your other open files and we weren't even aware of it. I believe we found it and sent it over to the Bureau shortly before it responded. As far as I am concerned, however, that is all water over the dam. My point is that neither the Bureau nor my Office will ever handle matters in anything like the time limits in the Act. And, believe it or not, I would prefer to do my job as "right" as I can, rather than as fast as I can.

As to the affidavit about the effect of the appeals process, I believe it said we were modifying in at least substantial part in about half of the cases. Over the past six months or so, there has been a tremendous improvement in the results we encounter

when we review Bureau actions. The modification rate may still be about 50%, but the bulk of the modifications are more "fine tuning" than substantial. We still have some marvelous disagreements, but not nearly as often as before. After three years at this job, I trust you understand why I am relieved. Again, any improvement is an improvement.

"Clean" copies would be (I believe) new copies of the worksheets in their final form. Often the "working" worksheets can be virtually unintelligible, with changes resulting from the various reviews, reprocessings, etc. In short, they would be just what I think you want -- a roadmap of the final Bureau position on each denial or excision. If the now-ongoing process results in release, we will "spot check" to ensure the clean copies are in fact identical to the final position reflected on the dirty ones.

I understand from Joe Borkin that you go back in this town just about as long as he does. I was born in 1935, so I am only a New Dealer by time of birth, not by fact of employment. Nonetheless, I plan to be at the 45th Anniversary Celebration of the first inaugural of F.D.R. this Saturday evening, as well as the luncheon at which Joe tells me he will relate a thirty minute humorous story. Hard to believe, but he can do it if anyone can.

I know from Linda Robinson that you and she have been talking about various matters. Good. We should have "our list" of your pending matters out to you by sometime next week. Then you can double-check it against your own records. Just remember that we only do administrative appeals on the merits -- no initial records reviews (except, of course, on AG, DAG and AAG records) -- and are only very indirectly involved in the litigation process. Once we can agree on the situation confronting us, we will be well on the way to dealing with it.

Sincerely,

Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

P.S. Trust you got my letter on the Rosenberg-Hiss records.

P.P.S. The enclosure may be of some interest to you.

CC: James Lesar, Esquire

GSA FPMR 141 CFR 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Benjamin R. Civiletti
Acting Deputy Attorney General

DATE: Jan. 17, 1978

FROM : /s/ Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

SUBJECT: Annual Report for CY 1977

This was the first year in which we completed the processing of more appeals than we received. This occurred in spite of an unforeseen and, literally, frightening increase in the number of administrative appeals filed with this Office.

During 1976 we had received 1556 appeals and we projected no increase for 1977, with an anticipated intake of 1560 appeals (130 per month). We actually took in 2261 new appeals, an increase over 1976 of 45%. Even more disturbing than the annual figures is the fact that we took in only 966 of the new appeals from January to June, and 1295 of them from July to December.

During 1976 we had completed work on 1166 appeals and we projected closing out 1800 in 1977. We actually completed the processing of 2400 appeals, an increase over 1976 of 106%. There were 820 appeals closed during the first six months of the year and 1580 from July to December.

Comparative figures for 1975, 1976 and 1977 are attached. There should be no serious difficulty in maintaining a closure rate of appeals in the range of 250-300 per month during 1978. Whether this will produce a substantial reduction in the number of cases pending (997 as of 12/31/77) will depend on the number of new appeals received.

In addition to administrative appeals, this Office also completed the processing of 722 other matters in 1977. These were 413 Department Review Committee decisions, 215 initial requests, 63 major miscellaneous actions and 31 supplemental actions.

OFFICE OF PRIVACY AND INFORMATION APPEALS

ADMINISTRATIVE APPEALS CASELOAD

	1975		1976		1977	
	IN	OUT	IN	OUT	IN	OUT
1Q	41*	3*	403	274	476	305
2Q	382	82	412	322	490	515
3Q	477	215	352	265	693	646
4Q	376	231	389	305	602	934
TOTAL	1276	531	1556	1166	2261	2400
Avg/Q	409*	176*	389	292	565	600
	IN	OUT	IN	OUT	IN	OUT

* The Office was operational for only the last three weeks of the quarter. The 1Q figures were not considered in computing the Avg/Q figures for 1975.