

Dear Jim,

4/7/83

= I've just returned from the morning's therapy, leave shortly for the podiatrist, have the leave early this afternoon to have commercial reworking of the affidavit I told you about completed yesterday. So I'll begin responding to the mailing I've read, including the proposed CIA amendments, with them.

While nobody will pay any attention to my advice, it is that most important of all is to attack, not defend; and after the attack, defend, with the defense much more effective because of the attack.

In this the major problem will be the copout of the liberal finks, who have always done this.

If anyone want to attack, there is a fine record.

With regard to this proposed amendment, from a single hasty reading I believe, as I told you based on "ardner's story, that it will exempt all illegal domestic operations and all the CIA's past dirtyworks, which have nothing to do with any intelligence function.

The spying on CIA and Bud was by the Office of Security, of all things. He has those records. So was the investigation and part of the coverup in the Olson death (which I regard as a killing), and the beginning of it ~~operations~~ and all other such operations will be excluded because that component, Science and Technology, will be exempt.

I'll check the King records but I think the directorate was obliterated on the spurious ground that it is immune.

When they have immunity for "information contained in operational files that which concerns sources and method" (2:12-5) they have immunity for all operations against Americans and all domestic operations of any kind. Anything they do domestic is operations. (There is a provision I've not studied carefully that may have loopholes but seems to say you can have the records on you. Have I, yet, after 12 years?)

At the bottom of 2 and top of 3 they say that experience reflects that the withholdings have been proper. It also reflects that the withholdings have been improper. (They still haven't responded to my requests and still have not disclosed their JFK stuff due many years ago.)

4:7-11, esp 10-11 exempts all operations files, yet all stated above.

4:12-5 seems to exempt what is in the exempt components from its language. People can ask for stuff on themselves "contained in all categories of files" but this does not say from all components. Thus the three would still be exempt.

5:12-15 confirm what I say above about what is exempt from even searches.

5:23-4 exempts such things as their King operations and all domestic, the latter being both "counterintelligence" and "counterterrorism" from the past, as was King, on the suspicion of grinding the government to a halt.

They uses these fictions as covers for their domestic operations.

6:1-3 can be used as a cover for such things as the FVI did with Danny Schorr, they can include any domestic operations as having the intent of determining the "suitability" of anyone for any such functions, without his application.

6:16. I suspect that in practise this would be meaningless.

6:18-21 is very broad. I don't really understand it but I think it means that PA is inapplicable. Things like that. Gotta go. Check enclosed.

Later. And we are going to have to get a new copier. Parts not available.

The King records from the CIA you have in the 77-1997 file. Not in my office, in basement. Perhaps I'll get to check before we have to go for the xeroxing so I can send affidavit tomorrow.

CDS: It spells my name correctly and has the right defendant, but my recognition of its account of the appeals court decisions ends there.

I've lost track of the 1996 appeals, so I'll assume that if there is something I have to know or you have to ask me about, I'll hear from you. On consultancy cross appeal, I presume that is necessary, despite what you said. Do whatever you think necessary and if you have any questions, ask me. I'll be away for part of this coming Wednesday, when I see Hufnagel. I should be home by 1 p.m., though.

Les Whitten is impressed by the magnitude of the FBI's operations against King. We talked about this yesterday and he's to phone and road to me today. I want to do more checking before then. He's been in touch with Coretta's attorney, named Goble, I think he said, and will suggest that he phone me. He got an initial runaround at FOIPA until he spoke to "all," who acknowledged knowing my name. Others didn't. I think he used it referring to the records, the inventories. He was impressed at the numbers of serials, I used NYC as an example, and at 2610 retained logs on the surveillance of Clarence Jones. I want to do this with Atlanta also because I'm sure it doesn't refer to the entire room of tapes it had. Before he calls.

I'd been going to try to retype the short additional affidavit I did when, in trying to clear my desk, I found pages I'd copied from one of the Hosty appeals. It provides definitive answers to LaHaie's fabrications and thus backs up the Gaire appeal and it also has info that is important to have in the record. On those eight pages I refer to 31 documents, some, I'm sure, multiple-page. So much for documentation. And some still not searched for. It also is a source on SAC personal and confidential files and reflects the fact that in my appeals I provided my sources, in the form of copies of the FBI's own records. She is still having the same trouble with the Hermes and since the "repair," new ones. She has a call in for service again. One of the most exasperating is the number of ! that come up unwanted and unstruck! She was late getting this one retyped because of that and she wasn't well. Yesterday with the copier and that was much too much for her!

Your letter of 2/2 got her today. So you should have heard from the DJ atty on 1996 by now.

As I did with his last three submissions, from now on I'm addressing every word LaHaie says. He is entirely consistent: he was never once truthful. And I find checking his footnotes, where they cite a source, is eminently worthwhile, as you'll see. One of them actually has him saying I'd provided all the requested information pertaining to scope and searches!!! He didn't refer me to that, tho!!

There is no way this case can end at all soon without using what he has provided to make his and their positions entirely intolerable, and I'm doing that. I'll go over the affidavits you didn't use. I can't possibly compare those you used parts of with what I gave you. But maybe I'll go over them to see if I can decide. What we have on him is now essential, as I saw way back. You ought remember your own legal maxims.

Any fight on what the CIA is up to is worthwhile but don't expect success without a vigorous one.

Best,

JAMES H. LESAR
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TELEPHONE (703) 276-0404

July 2, 1983

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

Dear Harold:

Enclosed is a copy of the Goldwater/Thurmond bill to amend the FOIA for the CIA. Mark brought me a copy of it this afternoon. A hasty reading of it does nothing to allay my concerns that the ACLU and the CIA have worked out a deal which will enable the CIA to cover up indefinitely those records of greatest interest to the public.

I would appreciate your analysis and comments, with references to particular facts which can be used to demolish the presumptions contained in the bill. The bill exempts Office of Security records. It is my recollection that you have obtained pertinent OS records, including a review of Frame-Up and records on Dr. King, as a result of your requests. Am I right?

I have been reviewing the entire record in C.A. 78-0322, but because of some necessary interruptions by other cases have not yet completed it. However, I expect to have done so by the end of next week.

I have not yet been able to reach the DOJ attorney presently handling the C.A. 75-1996 appeal, but should hear from her on July 5. The Court's order means that we will have to work out some sort of briefing schedule for the appeals. The Court's order correctly dismisses two appeals as premature. We need now to cross appeal the last order denying you the consultancy. Please send me a check for \$70.00 to cover this. (We have until July 12, 1983 to cross appeal.)

Also enclosed are a couple of pages from GDS (Government Disclosure Service), a Prentice Hall publication, which report on the Court of Appeals spectro decision and bills to amend the FOIA. The account of the spectro decision indicates how badly the public's understanding of the issues has been muddied by the Court.

Best regards,


Jim

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June 28, 1983

Mr. Larr R. Strawderman
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Strawderman:

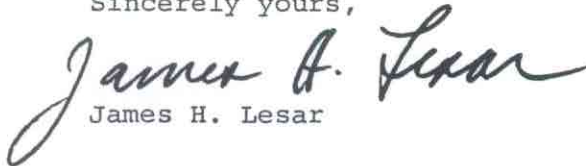
The June 22, 1983 issue of the Washington Post carried an article by George Lardner, Jr. on a bill to amend the Freedom of Information Act ("FOIA") which has been introduced by Senators Barry Goldwater and Strom Thurmond. The article states that the bill should undercut more than half of the 77 FOIA suits pending against the CIA. (A copy of this article is attached hereto.)

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I hereby request copies of any and all documents which reflect the impact which the Goldwater-Thurmond bill would have on pending FOIA litigation against the CIA.

I ask that you expedite this request. The information which I seek is needed in connection with congressional consideration of the Goldwater-Thurmond bill. If it is to be useful to those who wish to have an input into congressional consideration of the bill, it must be released soon.

I further request a waiver of search fees and copying costs for such records. Release of these records would "primarily benefit the general public" by informing the public of the CIA's judgment as to the effect the proposed bill is expected to have if enacted.

Sincerely yours,


James H. Lesar

1 ings and decisionmaking processes of their Govern-
2 ment, including the Central Intelligence Agency;

3 (2) the full application of the Freedom of Informa-
4 tion Act to the Central Intelligence Agency is, howev-
5 er, imposing unique and serious burdens on this
6 agency;

7 (3) the processing of a Freedom of Information
8 Act request by the Central Intelligence Agency nor-
9 mally requires the search of numerous systems of
10 records for information responsive to the request;

11 (4) the review of responsive information located in
12 operational files which concerns sources and methods
13 utilized in intelligence operations can only be accom-
14 plished by senior intelligence officers having the neces-
15 sary operational training and expertise;

16 (5) the Central Intelligence Agency must fully
17 process all requests for information, even when the re-
18 quester seeks information which clearly cannot be re-
19 leased for reasons of national security;

20 (6) release of information out of operational files
21 risks the compromise of intelligence sources and
22 methods;

23 (7) eight years of experience under the amended
24 Freedom of Information Act has demonstrated that this
25 time-consuming and burdensome search and review of

f. employees

1 operational files has resulted in the proper withholding
2 of information contained in such files. The Central In-
3 telligence Agency should, therefore, no longer be re-
4 quired to expend valuable manpower and other re-
5 sources in the search and review of information in
6 these files;

7 (8) the full application of the Freedom of Informa-
8 tion Act to the Central Intelligence Agency is per-
9 ceived by those who cooperate with the United States
10 Government as constituting a means by which their co-
11 operation and the information they provide may be dis-
12 closed;

13 (9) information concerning the means by which in-
14 telligence is gathered generally is not necessary for
15 public debate on the defense and foreign policies of the
16 United States, but information gathered by the Central
17 Intelligence Agency should remain accessible to re-
18 questers, subject to existing exemptions under law;

19 (10) the organization of Central Intelligence
20 Agency records allows the exclusion of operational files
21 from the search and review requirements of the Free-
22 dom of Information Act while leaving files containing
23 information gathered through intelligence operations
24 accessible to requesters, subject to existing exemptions
25 under law; and

1 (11) the full application of the Freedom of Infor-
2 mation Act to the Central Intelligence Agency results
3 in inordinate delays and the inability of these agencies
4 to respond to requests for information in a timely
5 fashion.

6 (b) The purposes of this Act are—

7 (1) to protect the ability of the public to request
8 information from the Central Intelligence Agency
9 under the Freedom of Information Act to the extent
10 that such requests do not require the search and
11 review of operational files;

12 (2) to protect the right of individual United States
13 citizens and permanent resident aliens to request infor-
14 mation on themselves contained in all categories of
15 files of the Central Intelligence Agency; and

16 (3) to provide relief to the Central Intelligence
17 Agency from the burdens of searching and reviewing
18 operational files, so as to enable this agency to respond
19 to the public's requests for information in a more
20 timely and efficient manner.

21 SEC. 3. (a) The National Security Act of 1947 is
22 amended by adding at the end thereof the following new title:

*does not
any comments*

1 "TITLE VII—RELEASE OF REQUESTED INFORMA-
2 TION TO THE PUBLIC BY THE CENTRAL IN-
3 TELLIGENCE AGENCY

4 "DESIGNATION OF FILES BY THE DIRECTOR OF CENTRAL
5 INTELLIGENCE AS EXEMPT FROM SEARCH, REVIEW,
6 PUBLICATION, OR DISCLOSURE

7 "SEC. 701. (a) In furtherance of the responsibility of the
8 Director of Central Intelligence to protect intelligence
9 sources and methods from unauthorized disclosure as set
10 forth in section 102(d)(3) of this Act (50 U.S.C. 403(d)(3))
11 and section 6 of the Central Intelligence Agency Act of 1949
12 (50 U.S.C. 403g), operational files located in the Directorate
13 of Operations, Directorate for Science and Technology, and
14 Office of Security of the Central Intelligence Agency shall be
15 exempted from the provisions of the Freedom of Information
16 Act which require publication or disclosure, or search or
17 review in connection therewith, if such files have been spe-
18 cifically designated by the Director of Central Intelligence to
19 be concerned with—

*domestic
intelligence
handling*

20 "(1) the means by which foreign intelligence,
21 counterintelligence, or counterterrorism information is
22 collected through scientific and technical systems;

23 "(2) foreign intelligence, counterintelligence, or
24 counterterrorism operations;

idem

1 “(3) investigations conducted to determine the
2 suitability of potential foreign intelligence, counterintel-
3 ligence, or counterterrorism sources; and

4 “(4) intelligence or security liaison arrangements
5 or information exchanges with foreign governments or
6 their intelligence or security services:

7 *Provided, however,* That nondesignated files which may con-
8 tain information derived or disseminated from designated
9 operational files shall be subject to search and review. The
10 inclusion of information from operational files in nondesignat-
11 ed files shall not affect the designation of the originating
12 operational files as exempt from search, review, publication,
13 or disclosure: *Provided further,* That the designation of any
14 operational files shall not prevent the search and review of
15 such files for information concerning any special activity the
16 existence of which is not exempt from disclosure under the
17 provisions of the Freedom of Information Act.

18 “(b) The provisions of subsection (a) of this section shall
19 not be superseded except by a provision of law which is en-
20 acted after the date of enactment of subsection (a), and which
21 specifically cites and repeals or modifies its provisions.

22 “(c) Notwithstanding subsection (a) of this section,
23 proper requests by United States citizens, or by aliens law-
24 fully admitted for permanent residence in the United States,
25 for information concerning themselves, made pursuant to the

1 Privacy Act of 1974 (5 U.S.C. 552a) or the Freedom of In-
2 formation Act (5 U.S.C. 552), shall be processed in accord-
3 ance with those Acts.”.

4 (b) The table of contents at the beginning of such Act is
5 amended by adding at the end there of the following:

“TITLE VII—RELEASE OF REQUESTED INFORMATION TO THE
PUBLIC BY THE CENTRAL INTELLIGENCE AGENCY

“Sec. 701. Designation of files by the Director of Central Intelligence as exempt
from search, review, publication, or disclosure.”.

6 SEC. 4. The amendments made by section 3 shall be
7 effective upon enactment of this Act and shall apply with
8 respect to any requests for records, whether or not such re-
9 quest was made prior to such enactment, and shall apply to
10 all cases and proceedings pending before a court of the
11 United States on the date of such enactment.

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