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Judge Sam H. Bell
United States District Court
Akron, Ohio

8/28/85

Dear Judge Bell,

In the event it is not forwarded to you, I enclose a copy of the letter I missent to Cleveland yesterday after reading the attached Washington Post story.

With your court in Akron, on the chance it may be information you or anyone to whom you might refer my letter may have an interest, I add some information also relating to FBI filing and searching practises, again from my personal experiences and FOIA litigation.

To save travel time, the FBI field offices have resident agencies throughout their territories. According to FBI testimony in my litigation, these residencies do not have files of their own. They use the files of the field offices and when needed move them physically to the residencies.

Searches, however, are limited to the field offices. The residencies are not searched.

It thus is possible, for example, that the FBI could search its Cleveland field office and not find files that are temporarily in Akron.

While I am not saying that the FBI will do this with you, in one of my cases it reported that it could not find certain information after making a search for it. What the FBI did not tell that court is what it did with that information. It has records which disclose this and, as it happened, I knew. After I informed it where that information was it still did not produce this and there is a practical limit to the detail that can be litigated.

Sincerely,

Harold Weisberg

7627 Old Receiver Road
Frederick, MD 21701

August 27, 1985

Judge Sam H. Bell
Federal District Court
Cleveland, OHIO 44100

Dear Judge Bell:

For the past 20 years I have made a careful and detailed study of the FBI in two major cases. Under the Freedom of Information Act I obtained about 250,000 pages of FBI records, including those of eight of its field offices that relate to its inflexible procedures and practices with regard to informants. Two of my FOIA lawsuits against the FBI are still before the courts, one after ten years, the other after seven years. I believe that in the course of this study and the prolonged litigation I have acquired knowledge pertinent to what this morning's Washington Post quotes you as saying, that it is "time we all dispel the shadow of rumor and innuendo and shine the light of truth on the happenings" in the Presser affair.

My prior experiences include those of reporter, investigative reporter, Senate investigator and war-time intelligence analyst. I am 72 years old, in seriously impaired health and have nothing personal to gain by this, but I do have a citizen's interest in the workings of justice and of the agencies of our government.

I enclose also the lead editorial in the Sunday Post because it appears to reflect what the Post was told and is simply not truthful and is, in fact, impossible. This cannot be that what the Post calls a foul-up is only on the local level if it is on the local level at all.

My prior experiences with what the Department of Justice calls its "Office of Professional Responsibility" (OPR) lead to the belief, and I say this based on its records at least a full file cabinet of which I have, that its real function is protective - to cover up what can be covered up to the degree it believes it can. I can provide considerable detail, including correspondence.

Today's Post quotes the lawyer Jack Levin as saying "that a civil suit would enable him to obtain documents about the government's relationship with Presser." With better luck than he can expect, he'll get only those documents the FBI does not want to hide. He will not get those it has already hidden by its filing system. This is an area in which I believe I can help you and the grand jury you have directed

to look into this matter. In my extensive litigation and from the study of its records I know some of the means by which the FBI files so that it can on the one hand retrieve and at the same time not produce records on a seemingly legitimate search. Again, I'll provide details because it is absolutely without doubt that the Cleveland field office has Presser records that are not in the "main" file on the litigation. My hunch is that the main file is of 92 classification, an anti-racketeering statute, but the records of the FBI's dealings with Presser will be in a 137 file, on criminal informants. This latter file will include special agent reports on each and every contact with Presser, including the use of a printed FBI form for this purpose, together with more detailed reports.

Most people, including experienced lawyers, have no idea how the FBI's informer system works and thus a paper like the Post can be conned into believing that no high official in the FBI had any knowledge of the FBI's relationship with Presser. Actually, because of his position, there are, in FBIHQ, even more than the usual high-level involvements in the Presser matter and from this still additional records that will not surface on the usual search. By accident, and only once in all those pages, the FBI disclosed to me that it has a "High Echelon Informant Committee," the approval of which is required for all major decisions involving such an informer.

The way it works, and I know of ono exceptions, is that no agent can make anyone an FBI informer without authority. At the field office level, if the recommendation is approved, the special agent in charge (SAC) forwards it, in writing, to FBIHQ. There the proposal is routed to the appropriate FBI Division where, after consideration on the working level, the decision is made by the Assistant Director in charge of that Division. (Not uncommonly, other Divisions and high-level officials are consulted for special reasons, particularly political reasons.)

Whether or not the Assistant Director's decision is approved by the Director (and I do not know whether in all cases this is required, but I believe that in all political cases or cases with political overtones it is), the FBIHQ decision is communicated in writing to the field office over the Director's name.

The initial approval, however, is for a probationary period of six months only. After six months there is a similar procedure, with the field office reporting to FBIHQ its evaluation of the information provided by the informer on probation (which FBIHQ also has) and FBIHQ then decides whether to continue him as a full-fledged "symbol" informer or to have nothing further to do with him.

In the information sent to FBIHQ based on what is provided by an informer, if there is any possibility that there may be any distribution, even the informer's correct symbol identification is hidden in the text. There is a separate sheet that is not distributed on which each of the hidden sources is correctly and fully identified to FBIHQ by the field office. The disseminated information is what the field office provides FBIHQ (usually in the form of an LHM or Letterhead Memorandum), minus the page or pages identifying the sources.

If Presser were a Cleveland criminal informer, he would be identified initially in the FBI's arbitrary symbol system (and it is a system that is not disclosed with disclosure of the correct symbol) as CL PCI followed by the arbitrary number. After probation the "P" would be dropped. However, the LHM that FBI would distribute, say to the Labor Department, would identify Presser and all other confidential sources with temporary identifications that are used and reused innumerable times, like T-1. Only the withheld page would disclose that T-1 is actually CL PCI 1234 or whatever the number might be.

The FBI makes and keeps detailed records relating to informers but it hides them even from internal investigations. Every payment is authorized and recorded, as is all that informers produce. The problem lies in the FBI's willingness to produce these records, which really means its reluctance to produce them. By way of illustration, a man who is now a prosecutor for whom I have a high regard was an FBI agent in World War II, assigned to South America. In a different context he made a mistake in referring to the FBI's informant record-keeping. In response the FBI produced - showed him and others - the receipts he obtained from his informers, including the head of state of one country.

Even when matters are handled by phone, it is the practice of the SACs to write memoranda to the files and record what transpired in the phone conversations. (This permits the information not to surface in a search at FBIHQ, to which normally the FBI limits its searches, when it can get away with that, but to be available to it in the field offices.)

The FBI also has, and regularly lies about, ticklers where the case agents keep at hand information from all sources and files that they need in their work. The standard FBI lie is that these ticklers - when it does not claim they do not exist for more than few days - contain only carbon copies of what is in the main case file. In fact, the ticklers include, to my knowledge, notes not in any other place and records from many other files. If, for example, Presser had any connection, innocent or otherwise, with a bank robbery case, or if such records where of any interest with regard to Presser,

the tickler would hold the copies of records from the 91 files, which are for such crimes. (The threats to you would ordinarily be in 89 files, and if the source were an informer, in 137 if a criminal informer, in 134 if a political informer, and in 170 if an extremist informer, etc.)

The FBI also uses its seemingly innocent file classifications for hiding. One of a series of "administrative matters" or "admat" files is 66. That is where it hides and by that hiding has gotten away with withholding records relating to wiretapping and bugging. It simply does not search the 66 file on the ground that it is irrelevant, being on "administrative matters." I can show you the FBI's response to an important, high-level Department request in which it provided 400 pages of field office inventories which managed to hide the most voluminous and significant of the requested records because they are 66s and thus the FBI got away with pretending that they are not relevant to the information requested by the Department for the OPR.

This is but an indication of how the FBI hides by its file classifications and indices while being able to retrieve what it has hidden if and when it has that need. Let us assume an extreme case, that there is White House involvement in the recent developments in the Presser case. The field office would simply not run the records through its central filing system and thus could avoid indexing. They have in the past kept such records in the SAC's safe. At FBIHQ, when the records are not kept out of Central Records, they can be classified as "administrative inquiry," one of the admats. Thus the FBIHQ file on the assassination of President John F. Kennedy, which it never expected it would have to disclose, is 62-109060.

A misused field office file classification is "80. Laboratory Research Matters." In fact, the Lab reports are in the appropriate main files and this file is used for local contacts the FBI wants to hide, its lobbying, public relations, politicking, etc. At FBIHQ this is duplicated by misuse of "94. Research Matters." Most of the records of this nature that I have, and I have a rather large number of them, are from when Cartha DeLoach was in charge of the FBI's propaganda, leaking, lobbying, press contacts and special contacts, as with the White House. He was then Assistant Director in charge of, shades of Orwell, the "Crime Records Division." He handled contacts with the White House and I have copies of some of them that are pretty Byzantine.

Assuming that there are Presser records that are not in the main file and thus are not indexed to the main file, the FBI indices have what it calls "see cards." These are citations to other files in which he'd not be the main subject. If

it had been reported that he had contact with an embezzler, then the see card would index a 52 classification file or if someone accused of obstructing justice or a court order, or a criminal investigation, then to a 72 file, etc. Not uncommonly, the FBI searches avoid these see cards.

The FBVI may not destroy records of ongoing cases and when the field offices do destroy records, there is a special form used to show where the information is contained in other records. (I have about 5,000 pages of FBI information relating to its destruction and preservation of records.)

While the FBI prefers not to lie outright and instead has elaborate mechanisms for avoiding a direct lie by some of the subterfuges I indicate, when the matter is of sufficient importance to it, perjury is no barrier. In several instances the OPR merely ignored what was called to its attention. I have done this twice recently, without even pro forma acknowledgment of my communications. Even with the proofs filed in court, where, alas, most judges are intimidated. Unfortunately, my experiences of this nature extend to the offices of the United States Attorneys, where I've never met anyone not afraid of the FBI. The USA for the District of Columbia is ignoring my formal complaint of FBI perjury in a current case. My first letter, after being opened, was marked merely "Return to Sender" and the second remains ignored. In this I am trying to indicate another of the problems you face in getting the light of truth to shine before the grand jury. Will the USA or his assistants really dig and really present a case or will he and they accept the FBI's usual circumlocutions, evasions, misrepresentations and obfuscations? And who will be able to know whether or not the FBI makes an honest search when nobody can see its indices - not even the special agents are permitted to do this. They file requests for searches and the searches are made by others. Moreover, I have search slips that have been edited and which knowingly omit records the existence of which the FBI had disclosed earlier.

I am not one of those who believes that agencies like the FBI and CIA ought be abolished and I would much prefer that they not only perform better but stay within the law. When these agencies do not stay within the law, our entire system is endangered and justice, certainly, is endangered. I fear also that, with the proliferation of such practices, the constitutional independence of the judiciary is endangered. I also believe that the correct of official error in the end strengthens the agencies that have erred and earns public confidence.

Brandeis put it well when he said that for good or ill the government is the teacher of us all. Our younger people ought not be influenced by wrongful examples nor should they be

led to believe that wrong is right or that dishonest is honest or that might makes right.

So, I hope very much that your efforts will be successful, that the light of truth will shine, and that though the heavens fall, justice be done. If there is any way in which I can help, please let me know.

And if you believe this letter ought be seen by others, for example, the lawyer Jack Levin, please feel free to make any use of it that you consider appropriate.

With my sincere thanks for your position and the dedication it reflects.

Sincerely,

Harold Weisberg