2/22/77

Dear Howard,

I think Jim will find use for the Rogers/DepAG 2/7/77 letter to you.

If not before he has made explicit the review role as excluding anything excluded on a lower level and of reviewing only that which they admit withholding.

The number of your appeal is higher than one of mine on which there has been no action.

In fact I remember only one number being assigned to any of mine.

Best,

OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

Mr. Howard Roffman
1111 Southwest 16th Avenue
Apartment 156
Gainesville, Florida 32601

FEB 7 1977

Dear Mr. Roffman:

This is to advise you that your letter pertaining to the processing of your request under the Freedom of Information Act for access to certain records in the files of the Department of Justice was received by this Office on December 22, 1976.

I have notified Director Kelley and Mr. Richard Thornburgh, Assistant Attorney General of the Criminal Division, of your communication. Although the Act authorizes you to treat the failure of the Federal Bureau of Investigation and the Criminal Division to act on your request within the specified time limit as denials thereof, this Office, because it lacks the personnel resources to conduct the comprehensive record reviews that are necessary to make the initial determinations on requests for F.B.I. and Criminal Division records, cannot act until there have been initial determinations by Director Kelley and Assistant Attorney General Thornburgh. Our function is limited to the review of those records to which access is in fact denied. We then advise the Deputy Attorney General whether he should reverse, modify or affirm the initial actions of the F.B.I. and the Criminal Division. This Office will, however, monitor the processing of your request by these two organizations. In addition, if you are dissatisfied with their actions on your request, simply so advise this Office and your letter will be treated as an appeal on the merits.

You may, if you choose, treat this letter as a denial of your appeal of the actions by the F.B.I. and the Criminal Division, and bring an action in an appropriate federal court. We hope, that in making a decision, you will give sympathetic consideration to the fact that the F.B.I. and the Criminal Division have thousands of requests pending at this time and are making every possible, reasonable effort to process them.

In reference to your administrative appeal from the action by the Civil Rights Division on your initial request for certain of its records, we have adopted a general policy of assigning appeals to Office attorneys in their order of receipt in an attempt to afford each appellant equal and impartial treatment. Your appeal has been assigned number 2695. Please mention this number in any future correspondence with this Office concerning this specific appeal. This Unit has a substantial backlog of pending appeals received prior to yours and a shortage of attorneys. For your information, over 2004 appeals have thus far been completed or assigned for processing. We will notify you of the decision of the Deputy Attorney General on your appeal as soon as we can. We regret, however, that we have been unable to do so within the time limits specified by the Act. For that reason, I must advise you that you have the right to seek judicial review of this matter in an appropriate United States District Court.

Concerning your request for additional record searches in the Office of Legal Counsel and the Office of the Attorney General, I can advise you that your request of September 7, 1976, has now been referred to those two offices for consideration. You will receive responses from each office shortly.

The necessity for these further delays in the processing of your requests and appeals are regretted and your continued cooperation and courtesy are appreciated.

Very truly yours,

Richard M. Rogers

Richard M. Rogers, Deputy Director
Office of Privacy and Information Appeals

I'm going to hold off responding to this, at least for a little while till I hear more from FBI and other offices. I don't believe response at this point would serve much purpose, since I have now laid basic foundation for going to court. I couldn't file anyway until late March, early April.

HR