Mr. Clarence Kelley, Director
FBI
Washington, D.C. 20535

Rt. 12, Frederick, Md. 21701
4/17/77

Dear Mr. Kelley,

May I commend the agent who drafted your letter of April 14 for his clear demonstration of the FBI's concern with the letter and the spirit of FOIA and for a mastery of language that is in all ways faithful to the standards of the late Mr. Hoover's?

It is not difficult for me to share your lack of concern over the fact that this request was written only about a year and a half ago. Consistent with this your lack of expressed regrets is appropriate. Were you to express regret over what you "determined" you "had inadvertently overlooked" in your periodic reviews of your backlog when it is only twice as old as your claimed backlog, how would you explain several score more ignored requests as old or older, some going back to 1968?

Particularly commendable is your agent's choice of "inadvertently" to describe how he managed to "overlook" this one particular request. It has nothing to do, of course, with my discussion of it with him more than two years ago. Nor with the testimony you provided in my C.A.75-1996, that the FBI honors verbal requests from those of us who are of what is called the media, if minor media in my case.

You can better understand this aptness in Hooverian language when I explain that I testified in this suit C.A.75-1996 last September. Present on your behalf were AUSA John Dugan, to whom you have written me all must be referred and who handles all; SA Blake of your office of legal counsel; not fewer than four FOIA agents; and an assortment of Departmental representatives. Given the specifics of my testimony, the fact that it was subject to cross-examination and the existence of a verbatim transcript which you have, there is no doubt that in the continuing Hooverian practice the "overlooking" was surely "inadvertent."

In this testimony and by other means and by not infrequent written reminders you have been informed of these "overlooked" requests going back only nine years. This, naturally enough, permits you to "determine" that the "overlooking" of them also is entirely "inadvertent." This is particularly true of my specification of a request later than mine for a record provided to another who had that record long enough prior to my testimony to have printed it in a book. (Well, more or less a book and more or less with the kind of treatment not uncongenial to the FBI.) It is no less true of another of the specifics of that testimony, your giving almost overnight service to one who also duplicated one of my requests when that person was specific in saying he was not invoking FOIA. After all, I had annoyed you by taking you to court over this. Then there is the proof I provided of what the prejudiced might term discrimination in the processing of my FOIA/PA requests for the files on me. These are only some of the illustrations of the entirely accidental nature of that of which you write without need for apology.

Describing this one particular requests as for "documents related to the Silver Shirts organization" is a clever way of not saying they related to a planned putsch against the President and to an unsuccessful FBI effort to jail me. Mr. Hoover would be proud.

You report a review of those files. This review, you tell/ me, shows the documents "were transmitted to the Department." I can guess what will follow. But what I cannot understand is that with this review and with this "determination" supported by written records you cite why I have not been provided with copies of these records that are included in my request for all records on or about me. How was this "inadvertance" may I say "overlooked?" This is made less clear to me by your stating "Copies of these

documents were not retained at FBI Headquarters." My request was not limited to "Headquarters." There is more to the FBI than Headquarters, I suspect. My understanding is not increased by your failure to make any reference to any other referral of these documents. There was an Unamerican committee interest. And there were references to the alleged plan of then then Chief of Staff, General Malin Craig, to throw the elected President out. Because I was then of a somewhat suspicious nature and feared that through "inadvertence" some of these records might be "overlooked" I arranged for publication of the foregoing in a minor publication of the period through an investigative reporter I then knew. The publication was one the FBI monitored with care so this story should also be in your files. I would also hope that your files do show the FBI thought someone in government would want to know about the reportedly plotting general. I seem to recall that he did not remain in office long thereafter.

Your letter does help my understanding in other ways, however. Like why you never give me the sequential numbers of my requests. Even when giving them to others. Even, in fact, after my many requests. These requests, as you will learn if you read your own correspondence, began with my asking you to assign sequential number of receipt that that "inadvertently" the sequences of requests would not be "overlooked." You declined my suggestion. Then you made it your practise. They you exempted me from your practise. So I can understand that when the FBI is weeping in letters over five-figure numbers in its requests it may not want to itemize my requests with numbers that may be as low as "1." Meaning, of course, requests not responded to.

Now that you have referred "this particular request" to the Department; now that you are "reviewing" those "requests that are located in the FOIA/PA backlog," may I again ask for a list of all my requests, with their numbers, and a statement from you telling me when I may expect compliance with them?

Because my counsel may at some point be addressing these matters in court again I suggest it would be helpful to all concerned if you also inform me of the efforts directed at compliance after you were informed of all these requests about which you had done nothing in my testimony of last September. In the subsequent half year this is the first word I've had relating to any of these requests.

I'd hate to think that none of those lawyers and none of those agents let you know. Or took any steps directed toward compliance.

Wouldn't you?

Sincerely,

Harold Weisberg