Mr. E. Ross Buckley
FOIA/PA Unit, Criminal Division
Department of Justice
Washington, D.C. 20530

Rt. 12. Frederick, Md. 21701
6/8/77

FOI/CRM 2393

Dear Mr. Buckley,

Thanks for the enclosures with your letter stamp dated June 3. I regret it was dilayed reaching me because yesterday I met with the FBI's FOIA agent. He showed no signs of knowing of your letter so I presume he had not yet received it.

There is a real problem here. You send me records indicating that an undescribed file (except for the number of envelopes) was returned to the FBI and they tell me they gave these records to you and you, meaning the Department, never returned them.

What is truly astounding is that in these divisional memoranda there is no single reference to what I regarded as more important than any other item, the references to a plan to oust the President. From the records Im I loaned to the Department a Congressman named Thorkelson was involved with the chief of staff, General Malin Craig. I feel a decidedly Orwellian chill in reading 1940 records relating to those files and making no reference to this or to any inquiry. Saying in fact that there was no basis for inquiry.

There is another request of this nature that I filed with the Department. You make no reference to it. As I now recall it was to assure that compliance was not limited to FBI files or to FBI HQ files. I want all departmental records however described by the Department or stored by it. There is, of course, no limitation to the Criminal Division. But I recall nothing from anyone else anywhere in the Department. I also believe that the Act requires referrals once it is known that there is reasonable basis for believing other records exist and can be located.

I am sure that earlier in this matter I wrote about having been a grand-jury witness. The Department in fact made a strong effort to indict me. Now that I know the Department was also aware of the forgery, one of the two counts to which Hayne entered a guilty pleas, I find Im the absence of any such record in the Criminal Division other than what I would expect. I have a very clear recollection of being asked to go to the main Justice building, of being asked to sign a statement I found to be not accurate, of refusing to sign it and of being detained for a while. This impasse ended when my lawyer, Edgar Turlington, came. No record? None of the waiver I signed? None of the other records of that period, of conferences for example? None between Mr. Rogge and me then associate, the late Gardner Jackson, Mr. Rogge's friend? No recusal from Mr. Rogge, Mr. Jackson having been his friend?

No record of what happened to those of my papers obtained from Congressman Hook?

I do have difficulty believing that you law and order exponents, then and now, have so frivolous an attitude to property, which is what all these records are. Mine only.

No referral to the Army? To the Attorney General on such a matter?

I have no way of knowing how your files are organized but I am certain that in the Department there must be other records. I am confident that one in your position knows to whom to make the referral. It is, I would hope, all one big happy Department, one that even has telephones that might be used for such purposes.

My request is not limited to Hayne. It is for all records relevant to what was for that day a rather sensational matter. To the best of my knowledge all other principals in it are deceased. I believe that it is proper to release all of it to me particularly because I am depositing it all in a university as soon as I receive it.

What the Bureau returned to me, inm a box I burned just day bedore yesterday (National Eagle whiskey carton), was empty envelopes, file folders and some not all of Pelley's literature. It happens I discussed this just yesterday with SA John Martingh of the FOIA

unit. Last week the history professor who will be handling the archive I have begun to deposit was here. We packed up some of the older records for shipment. For the past 36-37 years what was returned to me has remained in the box in which it was returned. We went over that to save space because it was mostly empty envelopes of various sizes, none federal, and empty file folders. I took them to Mr. Hartingh, showed them to him and then deposited them in a wastebasket in the room in which we met.

Now some of the Department's people, and the FBI is part of the Department, emptied all those file folders which had held my property. (Can I ask you to believe that property is property, whether it is paper or automobiles, mine or ITT's?) I would appreciate a more serious effort to restore it than I have observed, more because from your own letter this matter is now more than a year and a half old, much older than any claimed backlog of which I have heard.

I do not pretend to seek any hidden meaning in the final paragraph on page one of your letter. I do not accept any arbitrary switching from one Act to another. My requests were under both FOIA and PA and I am expecting you to comply with both, not tell me that under your interpretation of PA you are required to search only a search in my name. I have given you the other names and I have asked for all relevant records. My name certainly does not appear in the plot to otherthrow the President. It should appear in files other than the one you say was searched with negative results, the Mary Helen case.

I do not believe either Act requires that I tell you the number of the room in which the files are kept or the name of the manufacturer or the color of the cabinet. I do believe it requires a search in good faith and with due diligence. Now taking Mary Helen as an illustration, not only was I virtually a Department employee, I rendered services that in some instances not even the FBI agents would perform. I was the unofficially official rumrunner for which I was given the Department's auto. I escorted a distressed damsel back to Washington as well as a male employee with delerium tremens part of the way to Washington. I participated in pleabargaining and legal research and was borrowed from the Senate to help with the duces tecum subpoenaes. I helped prepare the examinations of witnesses and even ran the teletype when necessary. I do not expect that there need be records of those or other functions and services but I have seen some letters and I surely was paid back some of my expenses if not all. In fact I was recommended for Departmental employment - in writing. I believe that with a little less dedication to Orwell and a little more to the language and purposes of the Acts my association with the Department as of that time might turn out to exist in some form on paper. Believe me if I do not here go into all of them I did perform the most delicate of services not all of which were not recorded.

In the course of collecting the records for the university last week I found a few negatives, second or later generation, made from film brought out of Chile for me and delivered by me to your Division, as I remember to George McNulty. I also gave all of this material to Jimmy Roosevelt. President Roosevelt used some of it in a fireside chat. CIA has found records establishing that I did provide such material but none of the material. I certainly hope you will not contest that records of this nature meet the historical requirements. I do also hope you will not want me to believe that nobody in the Department believed there was any interest in a Nazi plot for a coup in Chile-or that nobody referred any of this to the late J. Edgar Hoover.

I could go on and on with evidences of records that have to exist-and you find none. I have been shown a record released in the Rosenberg case. It refers to coverage of a recital by the late Paul Robeson. I met Mr. Robeson at the airport and was his chauffeur-escort to after the completion of his concert. The records I have seen refer to the license numbers of other autos. Can you believe that there is no record among them alone of me? One of the people investigated in that case, much to my surprise when I learned of it, rented an apartment from which I had moved earlier. I was a guest there when there was a party for the black writer Richard Wright (Native Son - I have a first edition). I had a

date or two with her daughter and I worked with her former husband. There is probably more but would you believe there is no record at all, even if I never knew the Rosenbergs or any others in that case?

My wife has read your penultimate paragraph relating to Alger Hiss. You refer to 500 pages with no indication of their content. My wife was in a secretarial position with the Senate committee for which Mr. Hiss worked. (In connection with the criminal charges against Mr. Hiss I was spoken to by an FBI agent who was really looking for my wife who was not home. Later my wife was interviewed.) My wife's reaction is that because she thought well of Mr. Hiss and believe him not at all guilty the records of the interview may well have been withheld from the prosecutors.

In this paragraph you say "We recall no reference" to either of us. We did not seek your recollection, the laws preclude my asking your recollection but my wife and I did request copies of records. Please let us know what the records show, not what you claim to recall.

With irrelevant and immaterial words like these for which you did find time I regret that you could not have been more specific in your final paragraph. In it you tell me that you told the National Archives the Department has no objection to the release to me of an entirely undescribed record. If you had given any indication of what that record of 11 years ago related to perhaps I might recall it. I do not. It may even have been provided to me by the National Archives last year. There simply is no way I can learn this from my files. Because you know this and I do not I ask that you make this comprehensible to me in whatever form suits you. I do not believe it is the intent or the language of the Act that I be put to all this extra time and work to obtain any record.

If I have no knowledge of the organization of your files I do have knowledge that regardless of the manner of organization you do have means of learning whether or not you have records you have not provided on or about my wife and me. We both invoked both Acts. In combination and with the requirement imposed upon you by the standard of good faith and due diligence we are asking that you abandon all these unbecoming semantics - and after the forthrights and proper policy statement by the Attorney General - and instead of such evasion as claiming what you "recall" merely provide the records that you can find if you can overcome a well-established reluctance to do it.

Sincerely,

Harold Weisberg