

Dear Jim, Compliance-Non-compliance in C.A. 75-1996  
Powers' form letter of 8/8/77

11/1/77

On the off chance you have need for this tomorrow I begin with shorthand:

We have reported non-compliance with those requests mentioned in the Department's Form 4-694 (3-2-77) stamp dated 8/8/77 and in particular with these subjects mentioned in it:

Various persons who figure in the King assassination investigation, including James Earl Ray, his former counsel, my client and myself;  
The alleged electronics surveillance searches;  
Crime scene photographs (and in fact the April 1975 request itself);  
The records relating to the work of the Laboratory, which is not the Department's ambiguity "laboratory documents";

And in fact the designation of FBI "Headquarters files" itself, for we have found that in this reference the FBI is evasive, pretending that there are no other FBI files in Washington other than those it also refers to as its "central files."

We hope to work these questions out with the Department. If we cannot then we can later present them to the Court. By this means we hope to avoid wasting the Court's time if the existing questions can be resolved by other means.

You may or may not be able to work these questions out. I'll go into them for that purpose or for your later use in court if that becomes necessary. I will have a carbon with this so that, if you desire, you can give it to Lynne Zusman. Because of this I will not be as fully specific as I otherwise might be in order not to compromise her. While I have no problem trusted her or Schaffer I must recognize that they are counsel to the Department and avoid even the suggestion of conflict of interest for them.

I am reasonable confident that there is nothing that follows that I have not taken up verbally or in writing with the FBI.

Of course the requests were not addressed to the FBI only. Other components have relevant information they have not provided. By this I do mean as related to this FBI form letter and the attached memo, not just to response to the requests in general.

In Graf 1 they limit to whatever is in the central files only. While they fudge here earlier they were specific. Following my complaints on this they have changed the semantics. There are other files in Headquarters. Aside from the presence of laboratory compliance from lab files we have received no record from any other file anywhere in FBI HQ. You were with me when I specified others to John Harting and his associates. His response is that none of those to whom copies were sent-of records we have- kept any files. I equate this with his claim that the field offices have no indexes, a claim he abandoned but did nothing else about, when I sent him a record that shows systematic indexing in Memphis.

Were none of this true there remain hundred of records stated to be attached, not provided, and we have no statement of any searches made to find the attachments. In each case I can recall there is an obvious place to search, the offices indicated. Not uncommonly the CRDs of the FBI and DJ and several FBI Divisions, from the files of which we have no single records save the joke Horn called compliance from DJ CRD, not made less laughable by Turner's later production of a few more records.

Here also the search for records relating to the two of us is limited to "Main files." Non-compliance is thus guaranteed. With both of us but especially with me it is necessary to search the field offices. On the subject in general this is a truism. Most of it never reaches Hq., as we got the agents to testify a year ago September. With the politically embarrassing this is even more true. An example is the absolute stonewalling and the Wiseman lying if not perjury about pictures of other suspects. He persisted in this even after I told him that at the least the FBI had those pictures I gave it. I told him how to find them before the middle of last year. I do not have these pictures (back) yet but last week I obtained not from the Baltimore office a record generated by the Baltimore field office, exactly what I told Wiseman and I think Blake.

It is inevitable that absent some departmental compulsion the FBI is going to

stonewall on this. The potential for embarrassment is that great.

Next they go into what cannot be complied with in the words used, "A search of the Electronic Surveillance Indices" with respect to us, Jimmy, and Judge Battle. (I'm under the impression we itemized others.) I don't know how much of this you know or they do and the way I've been feeling lately I'm not clear on what I've told you in the past but I'll be specific enough.

I don't know when they established this index or these indices. Consider this and what follows within their specified limitations that most will not take as limitations, first,

"the subject of an electronic surveillance," then then even more limiting, "conducted by this Bureau."

The FBI picked me up before I went into the Army in World War II, probably in 1940. My source is one of the best, an Assistant Attorney General in Charge of the Criminal Division. I've known quite a few, some rather well.

I can expand on this but I think one specific is sufficient for now. It makes the point and if necessary I am quite prepared to testify to it. They may have applied their paranoid view of the world and people but it was on my part as innocent as it was accidental. There is no reason for shame on my part.

"Conducted by this Bureau" does not include all those it did conduct, only those it had sanctified by someone else on whom they could later place blame, as with Bobby Kennedy when they blackjacked him into agreeing. (He had no real choice.)

When there were some pretended limitations the dodge was to tap, for example, and then not to ask for permission until the tap was productive. They had a grace period. I've forgotten but it was a day or two. Bud can be specific on these things from his Senate work. Once they found the tape productive they wiped out all that preceded it and moved for permission rapidly.

It is my information that field offices had considerable seeming autonomy in such matters, leading to a deniability situation for Hq.

Then there is the work done for the FBI by others, especially local police. It was given the fruit of such surveillances.

I illustrate with the case of Jimmy Ray. The Shelby County Sheriff's office had some surveillances of which we have absolute proof. We had this proof prior to this case. In this case we have the proof that the FBI received the fruits of some of these surveillances even ~~before~~ before the local DA did. There is a dead giveaway with regard to the guilty plea hearing and Jimmy's intent to back out on the deal Foreman got from him. We established in the evidentiary hearing that the first to know, of the bigger shots, was Sheriff Morris. Now how did he know? Jimmy discussed it with John Ray. But they were never face-to-face then. They communicated by the internal jail phone system, Jimmy inside the tank, John in the entry to it. Whether or not the electronic surveillance system designed by DJ and if Lynne and Schaffer do not know, it included close-circuit TV that could not be shut off and microphones we have no reason to believe ever were shut off.

(I also remind you that about 1972 I interviewed two prisoners who had earlier been confined in that tank after Jimmy was moved from Memphis. They both gave accounts that dovetailed, of nobody leaving the tank ~~at~~ between the times they badmouthed their captors and the time those captors came to the tank and beat them up for what they had said. You have the tapes of these interviews if you can retrieve them. I interviewed them separately.)

There were other electronic surveillances in Memphis of which I learned during my own inquiries. In fact they were extensive. They extended to surveillance of the DA's own office and to the departure of one of his top assistant's because of what that picked up. Without specifying my sources I note that besides members of the local press and bar they included the police and the prosecution.

Local authority had Foreman bugged at the least at the Peabody. My source is the best, neither reporter nor only a local lawyer. A lawyer, yes, officially connected.

Now I remind you of the late night of the discussion of Herb McDonnell's expert testimony. During that discussion, which was in my room only, there was an improvisation, one I had not planned as part of his expert testimony. That is the one part of his testimony

about which he was cross-examined. If Henry Baile had a wide specialty in optics he still required specific knowledge for that cross-examination, as I think you'll not forget.

We know about physical surveillances there.

Once I caught a direct tap on my phone when it was being worked on and there was a dead short. There is no irate husband after me and there never has been.

There are indications, including in this King business, of officials having knowledge of what was said on my phone and not otherwise by me.

To illustrate how this works between federals and locals I give you a farout but very real story. When the helicopters caused such a great and ultimately ruinous problem for us I once told one of the government people with whom I was in contact that I had tried everything I could think of short of shooting one of the helicopters down. I neither said I would try nor even remotely suggested it. As you know I have a record of non-violence and pacifism going back to the early 1950s and college. I have never been a hunter nor have I ever owned a weapon suitable for hunting. I have two antique pistols, each for different reasons. I also, long after the time in question, obtained a duplicate of the so-called Oswald rifle. But I've never fired it. In short, if I'd wanted to there was no way in which I could, with a pistol, even dream of shooting and hitting a helicopter. But the paranoids in Washington, and you are familiar with their paranoia about me, decided I had actually threatened the President of the United States. They arranged with the local barracks of the Maryland State Police to keep me under surveillance on my own farm. My source is the best possible source on this. It is true. Crazy but true.

This is the way it works, cozy deals and working relationships. Years ago I was able to tap FBI files for a friend involved in litigation through a private investigator. Tap in the sense of getting its information about the man suing my then friend. And my friend, as a result, defended the suit successfully.

Bearing in mind that this paragraph of that letter is limited to HQ central files, notice the evasiveness of the seemingly specific language with which it closes:

"Furthermore, a review of our files revealed no information to indicate that any of you were ever the subject of any form of surveillance conducted by this Bureau."

This does not say that even these files disclose no surveillance on any of us. Only that the Bureau did not do it. The files, as a matter of fact, do disclose surveillances on Jimmy Ray, beginning in England and continuing in Memphis, repeated cases of it. They also include a request for permission to do it on the Ray family in the hope of picking Jimmy up and information about him up before he was arrested. You have a copy of the record in which they are explicit in not being deterred by the admitted unconstitutionality of their project and the certainty of losing a civil suit if it were detected.

There is no denial of surveillances for the Bureau nor is there any denial that it was the beneficiary of any surveillances by others.

They follow with the requirement of releases from others. Where we supplied such releases they limited to the same FBI HQ central files. By accident they have given me proof that field office files hold relevant records not provided. Of course this also is true of me. But I have in mind in the above Bud and Jimmy.

At the top of page 3 the first graf goes into several items. On crime scene photos we must insist on first-person affidavits at the least. Not only because John insists I am wrong, that the FBI did not take any pictures of its own prior to the belated picture-taking for the mock-up. (The DJ people may be interested in knowing this was not until after there was to have been a trial, the one that did not come off because Jimmy fired Hanes. And do you believe that Hanes was never surveilled during some of his cases?) Perhaps John is right. I think not and not only because I think I recall a record dealing with those pictures. The police pictures ultimately provided no not match their description. Not in number and not in content, as I've written you before.

John also insists that the FBI never gets news pictures. Maybe so, but in this case it had special needs, if only to be prepared for the defense having them. You know of other reasons I do not mention.

Low was not the only on-the-spot photographer. There were a black woman and white men press photographers. You are aware of the pictures I have obtained those I've ~~miss~~ not been able to reach. In any event, my affidavit in 226 establishes that there are departures from the alleged practise. The "oww pix are not the only ones the FBI has gotten and not returned.

The rest of this graf x uses the same meaningless language and no other language to avoid lying about the lab items of the requests, "laboratory documents." The request is not limited to papers that might now be found in the lab. It does include any and all relevant records wherever filed and however described. This language not only does not coincide with the request - I have records showing they claimed not to have enough time for a real search.

I have records showing the distribution of as many as 10-12 copies of records to people whose files have not been searched. When I raised this it was ignored. I have not been informed, in writing or verbally, that any such files were searched.

Going along with this is the kind of Rube Goldbergism they contrived to assure the searchers would be without the knowledge required for a first-person affidavit: they had Kilty be responsible for crime-scene pictures. I have that record. If I come across it before tomorrow I'll attach it.

Were none of this true there remains the systematic lying about the subjects of this graf. One example is Wiseman's affidavit to a search of the HQ files and not finding any pictures. In fact those files do disclose the forwarding of the "oww pictures to the Memphis field office and the sending to Washington and the filing in those files of the MPD pix.

Not until I disclosed my knowledge to him and Blake, which included a physical description of those pix, did he make any efforts. They they were directed to hoking up another means of withholding them. He has yet to relieve his false swearing.

The concluding sentence ~~if~~ is an overt lie. It says they'll search where I direct. I have directed and they have neither searched nor reported negative searches. A convenient illustration is cited above, the files of those to whom copies of lab records were routed, from the once-hidden copy listings.

The third graf says they are reviewing the Memphis files for "the various subjects of your December 23, 1975 FOIA request." This avoids the Washington files not searched and is false as it relates to Memphis. The most convenient of the many examples is King. He, too, of course, although they ignore this and pretend that because I filed a PA request they do not have to respond to what is relevant in the King case. To be sure there would be no confusion on purpose and subsequent non-compliance I filed a subsequent clarification. They have not provided a single political file on King from Memphis outside what little, and it is very little, that is in the Sanitation and the Invaders files.

Why did they hide the identifications of duplicate files? Here is an example. They did have Memphis SCLC files. They did have Memphis Poor Peoples' March files. Maybe they did not have a King file, although I doubt it. But these two had to be searched to comply with the Gointelpro/political item of the specified request. It has not been done.

Even that this would be released "periodically after processing" is false. They accumulated it into undigestible quantities and held any off until the last minute.

Two enormous built-in loopholes are limitation to the 12/75 added request and the perpetuating of non-compliance in the records that were withheld in their entirety or obliterated into non-compliance. For the DJ benefit, they have yet to replace the first copies given me from which they obliterated the names of all the Aeromarine people, even continuing to after I reminded Blake and Wiseman of the many times they had all been printed and of their inclusion in the guilty-plea hearing. This extends to the lab records, from which there were unjustifiable obliterations that hid where we could direct further searches. In that case it has been more than a year since we put proof that this was counter to Kelley's specific statement.

On this they have even rebuffed my offer of a possible compromise relating to the indexes of the 25 numbered or prosecutorial volumes. They now claim that this record,

FBIHQ 44-38861-6139, does not mean what I think it says, they know they withheld what they should not then withhold and would replace it later. (The "extensive search" they claim was required consisted of going where we told them to go.) At the top of page 2 they admit total withholdings. They then claim, falsely, to be limited to the information in the abstract, then claim to have to withhold to avoid "unwarranted invasion of personal privacy or identify a confidential source." (In no case I recall can either be true.) They wind up saying "a fuller release can be expected when the documents from which the abstracts were drawn are processed."

This has not happened with regard to either the documents or the indices. I ask that you now insist on full compliance with regard to both.

I have to get to other work, including trying to find time to go over what we've copied. If I find other records that relate to non-compliance I'll include copies whether or not I can repair any memoranda. I remind you that I have given you copies of a large number of records relating to non-compliance.

Over a period of time I have written much about records not provided and what I believe are improper withholdings. I can produce all those letters if Lynne does not get them from the FBI if she wants a paralegal to go over them for her. I believe that in most instances my specifics were correct and that the generalities are at least inside the fence.

Best,