

Mr. Morton Stavis  
Center for Constitutional Rights  
666 Broadway  
New York, N.Y. 10012

12/10/90

Dear Mr. Stavis,

Our mutual friend Sol Rabkin sent me John R. Mac Author's oped piece in the Times of the sixth, I presume because he knows of general interest in such matters and because of my fairly extensive experiences with the FBI in FOIA matters. Mr. MacAuthor writes that your organization discovered the FBI's files on his family's foundation and that the ACLU filed suit for them, when they were withheld on claim of "national security."

I have several purposes in writing. One is to request that you <sup>please</sup> forward an enclosed copy of this letter to Mr. MacAuthor because I have no New York phone book and do not have Harper's address. Another is the possibility of providing information that may, if precedents have not been overturned and the case is still in court, may be of use to the ACLU lawyer if he is not experienced in FOIA cases. (The article does not say whether or not individuals sought to use the Privacy Act.)

Time was, if one did not have a judge unduly favorable to the government, when an in camera <sup>with it</sup> ~~as~~ the records for which this claim is made <sup>to</sup> ~~to~~ determine whether the claim was made legitimately. I've been able to force the FBI to disclose records for which it had asserted this claim and found without exception that the claim was not justified. ~~As~~ you may know, the claim was generally asserted to withhold information provided by informers. Time was also when one could get a list of the withheld records, later a separate sheet identifying each one, which amounts to pretty much the same thing.

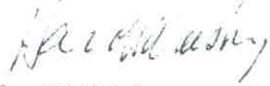
If you have not had occasion to learn it, some of the files in which the FBI hides records and that might have been used to withhold are, at headquarters, ~~are~~ "94. Research Matters," and in the field offices, "80. Laboratory Research Matters." The former is used to withhold from FOIA disclosure FBI records on lobbying, leaking and all elements of the media, all sorts of other things that the FBI from time to time regards as sensitive in the sense of potential embarrassment to it is squirreled away there. The field offices have no need for the 80 files because all those records are in its main case files and it uses that classification pretty much as headquarters uses 94. 80 also is used for relations with local authorities and like 94, is never searched to comply with information requests.

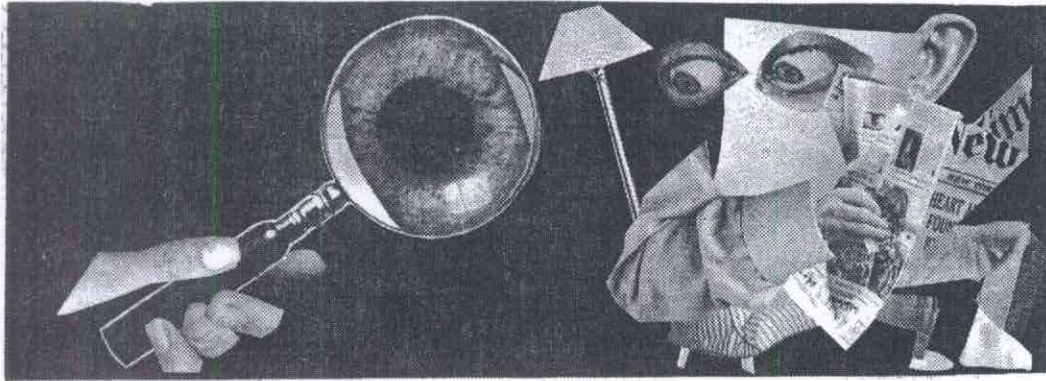
Before I tumbled to it, and I think that after I did the FBI xeroxed so certain cross-filings were eliminated, these added filing notations led me to the discovery that in 94 the FBI has quite extensive files on publications and their officials and staffs, writers included, and on the electronic media. I then made duplicate copies of such records that I detected. Whether these would be enough for what I hope Mr. MacAuthor would consider, an article on the FBI's special files on those who inform the people so that our system of representative society can function as it should and the inherent interference with First Amendment rights I do now know. I do think that were Harpers to use FOIA in an effort to write such an article it would have an important one. He or anyone he might want to involve is welcome to access to what I have.

Mr. MacAuthor says that after Hoover's death the FBI had little incentive to change its ways. From my ~~my~~ experience Hoover's clones control recruiting and promotions so from internally no reform may be expected. It also is that Hoover personally ordered disclosure of what after he died the FBI began to withhold under an assortment of spurious claims.

Thanks and best wishes,

Sorry my typing can't be any better

  
Harold Weisberg



Stephen Kroninger

NY Times 11/19/90

## Chilled By Hoover's Ghost

By John R. MacArthur

**L**ike many Americans, I assumed that the collapse of the cold war would put an end to Government surveillance of individuals and domestic political groups that oppose U.S. foreign policy. But last week my family foundation — which makes a point of defending freedom of speech and the press — was forced to sue the Federal Bureau of Investigation to find out why it is keeping files on the foundation and its president, Lance Lindblom. The agency refuses on "national security" grounds to disclose virtually any of the information it has collected about us.

Unfortunately, we are not alone. At least two other foundations that share some of our interests are pursuing Freedom of Information Act appeals to discover what makes the F.B.I. so curious about their activities. There are almost certainly more foundations in similar straits. But they either lack the money for litigation or fear the political consequences of it being known the F.B.I. is watching them. They tell themselves — foolishly, in my opinion — that what they don't know won't hurt them.

It's conceivable, of course, that the Bureau is conducting legitimate investigations of grant recipients whom it imagines to be engaged in criminal activity or espionage. But somehow I doubt it. The files on our foundation go back at least five years, and in that time we have given money

*John R. MacArthur, publisher of Harper's magazine, is a member of the board of the J. Roderick MacArthur Foundation.*

only to legal, tax-exempt organizations. And my family, now into its third generation of successful capitalist enterprise, must always have seemed a poor prospect for recruitment by the Soviet Union.

The more likely explanation for our files is that the F.B.I. still views opposition to Government policy as subversive and dangerous, particularly when it involves Latin America and Southeast Asia. Some of our money defends human rights in El Salvador and Guatemala, two countries with egregiously repressive governments that are heavily supported by the U.S. And Mr. Lindblom accompanied opposition leader Kim Dae Jung on his

### Why is the F.B.I. probing foundations?

return trip to South Korea in 1985, when U.S. policy still favored the dictatorial President, Chun doo Hwan.

It evidently matters little to the F.B.I. that for years we backed underground publications in Eastern Europe and the Soviet Union, as well as investigations of human rights violations in Albania, Cuba and North Korea. The traditions of J. Edgar Hoover die hard, and enemies have to be created.

The F.B.I. has little incentive to change its ways. In his 1988 campaign, President Bush successfully demonized the American Civil Liberties Union, our lawyers in the case against the F.B.I., and one of our

major grant recipients. The Center for Constitutional Rights, which discovered our F.B.I. files, is one of the Bush Administration's staunchest foes on civil rights policy and war powers. The center is another of our favorite charities.

We think it is outrageous that the F.B.I. won't tell us the truth, and we stand willing to press our case until we get damages and an apology for this blatant violation of our privacy. But even if we win our lawsuit, it won't be sufficient. The greater damage caused by F.B.I. intrusions is the chilling effect it might have on already far too cautious foundation executives. How many will now think twice before giving money to human rights organizations in countries, including our own, where the government has violated the civil liberties of its citizens? Nobody, after all, wants an F.B.I. file.

Three solutions propose themselves. The first is to restore the Carter-era standard — rescinded by the Reagan Administration — making it harder for the Government to classify information in the first place.

Second, Congress, which this year finally repealed the McCarthy-era McCarran Act, ought to complete the process of glasnost in our Government by passing proposed legislation that would prevent the F.B.I. from investigating the First Amendment activities of U.S. citizens and organizations.

Lastly, Congress should hold hearings on the role of the F.B.I. in the post-cold-war world and banish once and for all the ghost of Hoover, its founding director. After more than 40 years as a quasi-political police force, the Bureau should devote its full attention to its original purpose: catching criminals. □