

2/15/76

Dear Jim, NOW I PROPOSE BREAKING DOWN THE 1996 STATE MATH ...

You do what you must, I'll prepare what you can then consider using, with a new motion to compel or something not as easily appealed. I think you have their game figured out correctly. They repeat what works, even what doesn't.

Unless Green does something on her own, we have to arm her. An evidentiary hearing can do a job. It will also take much work, but fine, we'll have to let something else go and do it. However, I want to be in a position to go right to the appeals court with them and on a different basis than anyone else has or we have. And I want them to be much more on the defensive than they have been, less willing to lie, less willing to distort, more worried about something happening if they do. Meaning the guys who will do it. So let us prepare to lean.

I believe it is now necessary to make a frontal attack on their claim and the ~~judges~~ judges' willingness to assume good faith. This is one of the reasons I've started going over the transcripts. The last one convinces me that despite the leniency accorded government lawyers with an affidavit I can supply we can demolish that from the record.

I'll be skipping around as ideas come to me. The basic need has been in my mind a long time, as you know.

I think we need some simple interrogatories to respond to Dugan's lies about the people going over these files not being competent to comply with FOIA requests. Actually, Criminal and Civil Rights pretended to search despite what Dugan said. The Civil Rights people had these files during a long period beginning after the request and continuing long after the complaint was filed and amended. This also will enable us to go after the guys who did not abide by the law when that time comes. I'd like to have a case where the judges who must realize they are needlessly burdened by this want to end it. It must be true of most FOIA cases, in some degree.

We can in this case prove bad faith and I think we should. The exhibit I'm preparing is but one evidence of it. The affidavit will add to it. We have other affidavits we can use.

I'd like to go farther and attribute motive with fact. Finky as the Church report is, it now is Congress saying what I have always said and what we'd allege. With specifics.

This will be a major interruption of work I can't get done so if you have anyone in mind who could come here and edit that would help. I can get the retyping done here so you won't have to do that after you go over it. When this is possible you have to get out of that habit and economize on your own time.

I think this should be prepared rapidly to anticipate the coming dirty-works.

First I'll finish the exhibit from the transcripts. I have already set them aside to bind in a folder during the evening TV news.

Don't mail the extra set to me. I've been thinking about this. You are going to have to decide which pages you will want to use and the order in which you'll want to use them. I suggest instead that you make this decision as you read what I'll be sending, of which the first, which is of the last, will be enclosed. It will save you much time if you mark up what you want marked up and then xerox the copies you'll need after you ~~mark~~ mark one.

Your evaluation is that "we have turned the corner." I think it is at least that and that it may be more. For what I propose, however, that is enough. Wilkey's interest in the historical record and its preservation while it can be preserved, greater at the argument than in his decision; the Church disclosures; and the approach of your Motion to Compel affidavit in 1996 is, with the detailing of proof, the right course. I do believe we have come to that time. I know we have the need to do what it can do for us. Otherwise there is no end to stonewalling. It is 15 months ago today we filed the request. In eight months we have not obtained a single really meaningful paper. 75-226 is now on remand. I started that in 1969. They have to treat this one the same way. Besides, we have to beat their O'R whitewash. Hastily,