



UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

MAR 2 1978

Mr. Harold Weisberg
Route 12 - Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

This responds to yours of February 27 -- I am pleased that you found mine of the 21st pleasant and a surprise, if not a pleasant surprise. As our mutual friend Joseph Borkein might say, any improvement is an improvement!

Taking your points in order, I can only communicate with you on a matter in which you are represented by counsel, through that counsel. My "technical violation" regarding the worksheets matter -- now a lawsuit -- resulted from the fact that I didn't know there was a suit (I received my copy of the complaint one or two days later) and it was unclear whether you were handling that aspect of your case yourself or through Mr. Lesar. As to administrative matters pending in this Office, I can certainly write directly if your counsel, Mr. Lesar, knows and approves of the practice. As you indicated in a recent letter to Lynne Zusman, there are certainly aspects of this whole thing as to which it is rather hard not to deal directly. If Mr. Lesar has no objection, we can write directly (I will send him copies of my letters). Let me know what he says about it.

Within the next week or so I will try to locate copies of the rough transcripts of my two sessions before the Abourezk Subcommittee and will send them to you.

I was unaware that the F.B.I. has released worksheets in the past. Thank you for bringing it to my attention. I will certainly keep it firmly in mind as the Bureau and I "contest" both the overall (all cases) issue and as to the Kennedy worksheets. I will also explore the point you raise, of marking the exemptions on the released documents.

There seems to be some confusion about what my staff and I do, and when we do it in different kinds of cases. If the Bureau has made its release and you appeal on the merits, we

review all or a representative sample of the withheld materials and either affirm, hammer out an agreed modification, or reverse (in whole or in part). If the Bureau has not made its release (or decision to deny) before you appeal, all we do is keep an eye on it to ensure more-or-less that the matter doesn't get too lost. We do not do a review before the initial release (save in very rare cases, usually involving court-imposed processing deadlines). If you are dissatisfied with the release on the merits, we will take an appeal and relate it back in terms of priority to the date of your earlier "no response" appeal. So we have not actually reviewed the Kennedy records as released by the F.B.I. We are always available to the Bureau for consultations, and we make a special point of trying to help on the big historical cases (selfish interest -- the better the initial job, the easier the appeal review if there has to be one, as is usually the case). As I said in my letter of the 21st, I am treating your letter as a "protective appeal" extending to any and all records, exemptions, etc., as to which you finally decide to appeal after the worksheets issue is resolved. I hope this is clear, because I have a feeling you think we have done jobs badly when, in fact, we (the Appeals Office) have not done them at all. I get enough criticism for what I do do, that I can't stand any extra for what I don't do!

As to the time limits in the Act, they are so unrealistic as to border on the bizarre. This Department doesn't distribute its mail within ten days, and we get so much that our initial sorting, logging, etc., kill the rest of the first month. And things get "lost" in the pile -- if you're interested, that is what really happened to your fee waiver request on the Kennedy records. I haven't figured out who did it, or even when, but it got stuck into one of your other open files and we weren't even aware of it. I believe we found it and sent it over to the Bureau shortly before it responded. As far as I am concerned, however, that is all water over the dam. My point is that neither the Bureau nor my Office will ever handle matters in anything like the time limits in the Act. And, believe it or not, I would prefer to do my job as "right" as I can, rather than as fast as I can.

As to the affidavit about the effect of the appeals process, I believe it said we were modifying in at least substantial part in about half of the cases. Over the past six months or so, there has been a tremendous improvement in the results we encounter

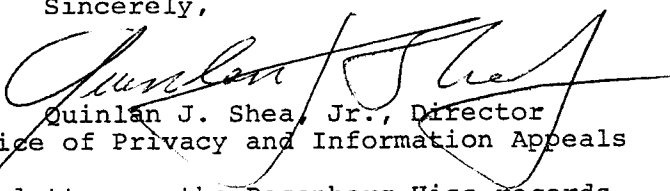
when we review Bureau actions. The modification rate may still be about 50%, but the bulk of the modifications are more "fine tuning" than substantial. We still have some marvelous disagreements, but not nearly as often as before. After three years at this job, I trust you understand why I am relieved. Again, any improvement is an improvement.

"Clean" copies would be (I believe) new copies of the worksheets in their final form. Often the "working" worksheets can be virtually unintelligible, with changes resulting from the various reviews, reprocessings, etc. In short, they would be just what I think you want -- a roadmap of the final Bureau position on each denial or excision. If the now-ongoing process results in release, we will "spot check" to ensure the clean copies are in fact identical to the final position reflected on the dirty ones.

I understand from Joe Borkin that you go back in this town just about as long as he does. I was born in 1935, so I am only a New Dealer by time of birth, not by fact of employment. Nonetheless, I plan to be at the 45th Anniversary Celebration of the first inaugural of F.D.R. this Saturday evening, as well as the luncheon at which Joe tells me he will relate a thirty minute humorous story. Hard to believe, but he can do it if anyone can.

I know from Linda Robinson that you and she have been talking about various matters. Good. We should have "our list" of your pending matters out to you by sometime next week. Then you can double-check it against your own records. Just remember that we only do administrative appeals on the merits -- no initial records reviews (except, of course, on AG, DAG and AAG records) -- and are only very indirectly involved in the litigation process. Once we can agree on the situation confronting us, we will be well on the way to dealing with it.

Sincerely,


Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals

P.S. Trust you got my letter on the Rosenberg-Hiss records.

P.P.S. The enclosure may be of some interest to you.

CC: James Lesar, Esquire