

Congressman Gerald D. Kleczka
House of Representatives
Washington, D.C. 20515

10/4/85

Dear Congressman Kleczka,

This letter is prompted by the Post's recent reporting of your efforts to strengthen FOIA and my own experiences, FOIA and other. I was part of a Congressional investigation in the 1930s and we succeeded against great odds and the 1974 amending of FOIA's investigatory files exemption is, in the Senate debates, attributed to my perseverance and experiences with FOIA and the courts.

I've also been a reporter, an investigative reporter, and I've published seven books, all of which required promotions for which I had no funding. From all of these experiences and those of a fairly long life (I'm 72 and in impaired health) I believe strongly that if you are to get this bill passed it will require more than what is obvious to the unprejudiced, that FOIA bespeaks the essence of our nation's unique contributions to self-government and freedom, that it addresses a basic right of the people, and that it has been and can be enormously effective in improving government and how it functions. I believe that airing some truly horrible examples of the incredible abuses, and these extend to actual felonies under the laws, together with an exposure of the great amount of tax money and time that might better have been spent in other ways, particularly by FBI agents and government lawyers, can be sensational and solidly informative and can create a climate of acceptability for what you seek and is so important to the nation and to good government.

I think the records in my cases, together with some of the information, both disclosed and withheld, lends itself admirably to these ends, of informing the people and the Members who will be called upon to vote. Vast sums and enormous effort have been expended to frustrate both the Act and the disclosures that were made only under the compulsion of litigation or in anticipation of it. But in no instance ought any suit have had to be filed and in every instance the stonewalling was monumental. I'm still in court in a 1975 case and another of 1978. In the 1975 case the Department of Justice wrote me not in response to my request but avoiding this and rejecting it by telling me that they didn't think I'd believe the official account of the assassination of Dr. King. That 1969 request sought the information said to have established the accused assassin's guilt. In the 1978 case in which the required initial searches still have not been made, the abuses extend to un-denied felonies, fraud, perjury and misrepresentation. Confronted with these formal charges the judge who usually acts as the FBI wants overnight is now sitting on all. The case record holds the proof of the actuality of these felonies in the form of FBI records disclosed to another. These offenses were committed in an effort to rewrite the law in court and to set precedents seriously adverse to requesters and their counsel and to the Act. It is difficult to encapsulate all of this but I'll attempt it. After I had provided, voluntarily, two full file cabinets of information in two matters, King and JFK assassination investigations requests, because I was asked to by the Department, the FBI and its Department lawyers claimed to need "discovery" that, for many reasons not reported in the press, I refused to do all over again. They have a judgement against me as an FOIA requester based on their felonious filings. Because they held my counsel to be responsible when I refused to do as he asked, in part because it would not have been honest in my view, they actually got a judgement against him, too, or double their claimed costs. The judgement against him was overturned but the situation created a conflict of interest that results in my being my own lawyer now.

What is even more incredible is that there is no evidence at all contradicting what I attested to with regard to this so-called discovery, but to the Reaganized courts that is immaterial. And there is no contradiction of my attestation, among others, that I had already provided all the requested information or my attestation as a subject-matter expert that no discovery was required.

That the appeals office has just assigned a new number to requests going back to 1977-8 and appealed promptly and repeatedly, as recent as this year and last, is not at all exceptional. I stay at the bottom of every list until I get into court, which means government and court time and money, and they ~~only~~ stonewall successfully (before all but one judge) and with criminal acts when they are before a sycophantic judge or one who is just afraid of the FBI.

Back in 1977 or 1978 someone I've never met learned that in the King case of 1975, to establish a pattern of intended noncompliance with the Act, I provided a list of some 25 requests going back to 1968, all simple requests and all ignored. It was given to the Senate FOIA subcommittee, which called Department witnesses. Quin Shea, then director of appeals, testified that there is no way in which he could in any way justify the FBI's conduct with me because it is indefensible and the Civil Division testified that it was going to take care of all these requests. (Its witnesses were the deputy AAG and the chief of its FOIA litigation section. The FBI's then head of FOIPA refused to testify at all.) Taking care of these requests and keeping the Department's sworn word to the Congress consisted of two things: perpetuating the ignoring of those requests and establishing a six-lawyer "get Weisberg" crew in the Civil Division. Six lawyers to frustrate the Act! When all six lost, and they were all there, in my C.A. 77-2055, heard in 1978, they switched to the kind of misconduct I refer to above.

The kinds of legal opinions that I've gotten from FBI records includes an interpretation of FOIA that says the FBI does not have to respond to my requests because it doesn't like me and getting the Director's approval for ignoring my requests for pretty much the same reason. They even cooked up a frivolous libel suit against me, to "stop" me and my writing, their word, got a ruling from the Legal Counsel Division that this is right and proper, and it failed only because the special agent who was to front for the FBI knew very well that my writing was entirely accurate. There is so much like this, and fabricated defamations along with it, distributed throughout the Department and the government as high as the White House.

I'm enclosing my most recent renewal of these ancient appeals and the response and a letter to the FBI, which it hasn't answered and probably won't because it almost never does, no matter what the content or the state of my irritation over this decades-long abuse of me and the Act and, of course, of the people's right to know because I am surrogate for the people when I file FOIA requests.

I do not indicate all the areas of potential serious embarrassment to the government in my letter to the FBI, but I am, as I have been in the past, quite genuine in indicating their existence. If you are interested, I'll be pleased to indicate some of this to you. There is much that is relevant to the Nosenko matter. One indication is that the CIA was treating him so well he commented favorable on it to the FBI - until the FBI sent the CIA its interview report in which it quoted Nosenko as saying that the KGB suspected that Lee Harvey Oswald might be an American agent in place or "sleeper." The testimony of John Hart for the ~~FBI~~ CIA before the House Select Committee on Assassination on how Nosenko was thereafter treated (without making this connection) is an eloquent description of what I think and hope is entirely unprecedented in this country. There is much that is relevant that the FBI's records do not include and I've obtained enough from other sources under FOIA.

If I can help in any way, please let me know. Sincerely, Harold Weisberg

