

Erwin Knoll
The Progressive
409 East Main St.
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Dear Erwin Knoll,

From your "Filed But Not Forgotten," it appears that the FBI has gotten away with its usual dishonest searches. I assume this from your lack of any reference to comments ^{about} what is mentioned only once in your article, "Crime Records." That is the FBI's Orwellian description of that division that handles leaks, the press, lobbying, etc. It has a special file number for those records and when the search slips are examined in the FOIPA branch they withhold all 94 classification records as not relevant. This is because of the name of that file classification, "Research Matters," and you didn't ask for research, did you?

I've never had any voluntary disclosure of any 94 records and I've never had a judge who would compel it. I learned about it from filing notations on records from other files. It appears that the FBI has at least one such file on the publications and writers on whom it has records.

You refer to your appeal. If this is administrative, those are terrible people who genuinely believe that there ought be no disclosure. They are FBI adjuncts, not impartial appeals people. They'll stall and they'll evade and they'll avoid all possible disclosures. And without detailed knowledge it often is not easy to catch them. If you are in court and it is that kind of an appeal and you didn't get any disclosure from any 94 files you may have another approach if it has been less than a year. It is to make a "new evidence" claim under Rule 60(b) and allege the existence and withholding of the 94 records.

~~"Materials related solely (my emph) to the internal rules and practices of the FBI,"~~ Exemption 2, is commonly misused by it. I've never seen this Exemption 2 claim made when it met the test of the Act, "solely."

For the exemptions of FOIA to be invoked, there must be a law enforcement purpose. Ask them what law they were enforcing.

And you should try to get copies of the search slips. If the clerks made a real search, I'm sure you'll find references to records not disclosed and for which no claim to exemption was asserted. Like the 94s. Not infrequently in my experience, baseless claims of "not relevant." With other than the 94s.

Best wishes,

Harold Weisberg
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