

Dear Howard, your DJ FOI Cr.1626

1/3/77

I have no clear recollection of my earlier recommendation. I think it should have been that you have co-counsel, like a faculty member. I should not have indicated that you not be pro se, not I with my dedication to fact. There is no member of the bar who has your factual knowledge essential to that request and probably none with your knowledge of the Act within your jurisdiction.

I also have faith in the building of a record. This you are doing. You ask about the claim to not having records. With Criminal you know of some they have so they can't pull this. Or, let them and then clobber them in Court.

With each one of these units I think you should ask for the sequential number and the claimed backlog. The date of receipt as Jim calculates it is the date of mailing + 2. Thus you will notice that whereas this is 9/7/76 +2 or 9/9, on 12/14 Buckley makes no reference to the date of official receipt. However, I also believe that you should make all reasonable efforts to avoid unnecessary litigation. You are within the law in filing once your appeal is not acted upon but I believe rushing in would be unwise and would deter the building of a record that can mean something in terms of preserving the Act as well as obtaining the information you want.

You refer to divisions, an ambiguity with DJ. They may well attempt to use this as a means of limiting the routing of your request. Thus Civil, which you do not mention and which should have records, is a division in the sense of Division and the so-called Office of Professional Responsibility is not. It is part of another Office, that of the DAG.

If you were dealing with honest people or even with dishonest people of honest intent this would be irrelevant. It is not irrelevant. Not only because they shift records around endlessly, as we have established, but thus an any time any component of unit (which I prefer to division) or any part can claim not to possess. Not that not having physical possession meets the requirement of the Act. Even in with the FBI, closely as it holds its own records. It also sheds them to be able to lie and regards compliance from whatever it means as the index of the FBI HQ files as compliance for the entire FBI. Jim and I have wrecked this as a matter of court record if you ever need it, in 1996.

You are dealing with dishonest people. Buckley is one who is dishonest, even within the norms of lawyerly dishonesty that is explained away as adversary diligence. You are also dealing with those who are responsible to what they regard as a higher authority than mere enacted law. These are authoritarians so they regard it as right and proper to violate a law their superior intellects and understandings tell them is not in the so-called national interest. To be illegal thus becomes patriotic if not legal to them. Perjury is no problem to them because they know it is not for them. I do mean the lawyers and the FOIA/PA lawyers and I have long relevant drafts if you ever want them. I prepared them while Jim was in the Singapore hospital and we never have a chance to use them.

Back to the backlog: I suggest that with each part you ask your relative position on the list and an estimated time not of searching, which can be irrelevant, but of compliance, full compliance. If it strikes you as reasonable having appealed you can go to court at any time so tell them if they comply in full by the date they have set you will not sue, if they have not you will, and that you give them the choice between needless litigation and forcing it.

No matter how phoney and fabricated the reasons the fact is they have contrived a backlog for the FBI only. Thus they tend to shunt all there. You have a case that is not there, hence no real backlog.

I'd ask Buckley to explain their numbering system, when does the 123 begin, for example. You will find that a 9/9 request can't be too far from its time as he avoids telling you. So ask and perfect the record. Now the obligation of proper internal routing is not yours, but I'd seek other identifications, like Civil, which at least through suits has to have relevant files. You have to watch these types of the dedicated wrong. Buckley misleads you on your rights under the law but can say one accepted meaning of exigent does not. Unique circumstances and 20% would get you the smallest bag of potato chips but no more. The language of the Act is simpler not good for him so he uses other language. I think it is exceptional circumstances. If you were the only one who made the request that would be unique. If you were about to take a vacation of a year that would be exigent. Neither

would seem to have meaning, especially not under part of Open America. There is another part that is your way. And as doctrine don't forget the language about the nation's interest in appeals decision § 75-2021. And speed "

Initially I'd have suggested ~~not~~ referring to the House but not now.

I take it that the Todd 12/22 is what I would call a Brown out. "woof."

On the committee we are really travelling a road we have gone down separately at the same time. The important thing is that you preserve your personal integrity.

Now I disagree with "For now, I think the proper thing is to offer." Wrong when now is the day they made their earlier press management official and when it was more than clear in the Anderson column of 12/24. Of all the actualities in the King case the one they fabricate on an assumption of Ray's guilt as the assassin is their claim to continuance and funding on it. On JFK the unhidden disinformation operation of the CIA/WxPost is? And with it the presumption of guilt, if you have heard that expression?

Whether or not this committee is continued and if it is whether or not the same staff and members are on it, from their record to date there is no honorable means of helping them that does not become part of their disinformation. Yes, there might be some conditions under which I would testify but none that did not permit my castigation of all it has done to date. Without getting that into the record at the outset and in full detail there is no testimony I would give and I believe they are without the right or power to compel the testimony of a writer. Moreover, they have yet to establish a clear legislative purpose without which they have no authority. I do not believe there is any chance they's force such an issue. They'd rather steal and claim other work as their own. I'm telling you how I feel about them, from personal experience, from watching and from the most dependable sources of what they are telling the press.

You cannot give them any vestige of credibility and not have regrets later.

LBJ Library: I'm sure writing it at Austin would reach it and I would recommend that rather than going through Rhoads, as you say. It is under him. On waiver ask first and argue only if refused. But I have the belief that American Mail is important here. On waiver.

Do you have a new typewriter? Best, and have a good year.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

December 22, 1976

Mr. Howard Roffman
1111 S.W. 16th Avenue
Apt. 156
Gainesville, Florida 32601

Dear Mr. Roffman:

Your letter of December 15, 1976 has been received by the Freedom of Information and Privacy Unit, Office of Management and Finance, and referred to the appropriate components of the Department of Justice.

You may expect correspondence from these components.

Sincerely,

Diana F. Todd
Executive Officer
Office of Management
and Finance





UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
FOI/CRM 1626

14 DEC 1976

Mr. Howard Roffman
1111 SW 16th Avenue, Apt. 156
Gainesville, Florida 32601

Dear Mr. Roffman:

This is in reference to your letter requesting information pertaining to the assassination of President Kennedy pursuant to the Freedom of Information Act.

Preliminary processing reflects that the Criminal Division may have records within the scope of your request.

However, because of the volume of requests received by the Criminal Division pursuant to the Privacy Act and the Freedom of Information Act, we have acquired a substantial backlog of requests, which like yours, will require the examination of records. In order to be fair to all requesters, we are completing requests in the order in which they were received in proper form (i.e., in the case of Privacy Act requests, when proper identification and designation of systems to be searched have been received; in the case of Freedom of Information requests, when the records requested have been reasonably described).

Your request is number 123 on our list of requests requiring the examination of records. We have presently completed processing through approximately number 52. Please be assured that we are exercising all possible diligence, given the volume of requests and personnel limitations, to process requests received by us as rapidly as possible. We will complete the processing of your request as soon as we have completed those received prior to yours.

If you feel that exigent or unique circumstances exist which warrant that your request ought to be taken out of order and processed ahead of other requests, please communicate the nature of the circumstances to us. We will, if the circumstances warrant, make every effort to expedite such a request. Your request bears file number FOI 1626. Correspondence concerning your request should be addressed to E. Ross Buckley, Attorney in Charge, FOI/Privacy Act Unit, Criminal Division, Department of Justice, Washington, D.C. 20530, and should indicate the above file number.



You are advised that if you deem our failure to comply with the applicable deadlines to be a denial of your request you now have a right to administrative appeal pursuant to the Code of Federal Regulations, Title 28, Section 16.5(d). The appeal should be in writing and addressed to the Deputy Attorney General (Attention: Freedom of Information/Privacy Act Unit), Department of Justice, Washington, D.C. 20530.

Sincerely,

RICHARD L. THORNBURGH
Assistant Attorney General
Criminal Division

by:

E. Ross Buckley
E. ROSS BUCKLEY
Attorney in Charge
FOI/Privacy Act Unit

1111 SW 16th Ave., Apt. 156
Gainesville, Fla. 32601

December 18, 1976

E. Ross Buckley
Attorney in Charge, FOI/PA Unit
Criminal Division
Department of Justice
Washington, D.C. 20530
in re File No. FOI/CRM 1626

Dear Mr. Buckley:

Today I received your letter of December 14, 1976 in reference to my Freedom of Information Act request relating to the photographs and X-rays of the Kennedy autopsy.

Your letter does not refer by date to a specific letter of mine. This is significant because my initial request was by letter dated September 7, 1976. That letter was forwarded to the FBI and the Criminal Division. Having heard nothing from the Criminal Division for three months, on December 8, 1976, I wrote the Office of Management and Finance that I would file suit if I did not receive meaningful response within the statutory period.

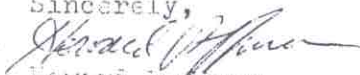
Your letter informs me of a backlog in your office and states that there are approximately 71 other requests to be processed before mine, which has been designated request no. 123. You also state that you will try to expedite my request if I can show "exigent or unique circumstances."

First, I would like to be informed why you waited over three months to tell me that my request could be expedited upon a proper showing by me. As you know, the law gives you ten working days to make a response.

Second, I do believe that unique circumstances exist which justify expediting my request. My request was sent "in proper form" over three months ago. It concerned records of a monumentally important historical event, a subject on which I have done considerable research and about which I have written a book. Thus, I have a scholarly and literary stake in these records. There is also a considerable national interest in these records. Since my request was filed, the House of Representatives has formed a select committee to investigate the Kennedy Assassination. News is breaking almost daily on this subject, and without the records I seek I am hampered in my efforts to ^{advise} those concerned with this subject both in and out of government.

Third, I shall make an administrative appeal, as described in your letter. This may be more form than substance, but if it can help expedite compliance it would be worthwhile. Although I very much wish to avoid the needless expense of litigation, each letter I receive from the Department of Justice leaves me few alternatives.

Sincerely,


Howard Hoffman

FREEDOM OF INFORMATION ACT APPEAL

1111 SW 16th Ave., Apt. 156
Gainesville, Fla. 32601
December 20, 1976

Attorney General
Attention: Freedom of Information Appeals Unit
Department of Justice
Washington, D.C. 20530

Dear Sir:

This is my appeal of my request for records by letter to the Department of Justice dated September 7, 1976. My request concerned records relating to the photographs and X rays taken at the autopsy of President Kennedy, and subsequent transfers and examinations of these materials. To date there has been no compliance with this request, and I would like to treat this failure to comply as a denial of the request.

There have been numerous irregularities involving my request and I believe you should be aware of these so that you may fulfill your responsibility to assure timely response pursuant to 28 C.F.R. §16.4(b).

First, my initial letter of September 7, 1976, was not addressed to the Deputy Attorney General, but was addressed to the Justice Department and was clearly marked, both on the letter and on the envelope, as a "Freedom of Information Act Request." According to 28 C.F.R. §16.3(a), a request improperly addressed is deemed to be received when forwarding to the proper address "would have been effected with the exercise of due diligence" and, upon receipt, the proper office "shall notify the requester of the date on which the time period commenced to run." I was never notified by any office of the Justice Department of the date on which the statutory time limit began to run on my request.

Second, 28 C.F.R. §16.4(a) requires that the Deputy Attorney General "promptly upon receipt of a request...forward the request to the division of the Department which has primary concern with the records requested." Apparently, my request was forwarded to the FBI, the Civil Rights Division and the Criminal Division. I assume this forwarding was prompt, although the response of the latter two divisions was not. However, I have been provided no indication that my request was forwarded to other offices within the Department that obviously would have records described in my request, such as the office of the Attorney General and the Office of Legal Counsel.

Third, the statute and the regulations, 28 C.F.R. §16.5(a), require a determination pursuant to the request within 10 working days. In no case have I been provided a response within this time limit. Response from the Civil Rights Division, which was neither accurate nor complete, was received approximately two months after my initial request; response from the Criminal Division, which was merely to inform me that I was caught in a backlog, was dated December 14, 1976, three months and a week after my initial request.

Thus, pursuant to 28 C.F.R. §16.5(d), which allows a requester to treat improper delay as a denial, I wish to exercise my right of appeal. For purposes of this appeal, I consider my entire request of September 7, 1976, to have been denied by every division of the Justice Department that might have records relevant to that request. As you may be aware, this appeal must be acted upon within 20 working days.

Sincerely,


Howard Rofman