

Dear Jim,

4/4/84

I've just returned from my regular checkup with Mufnagel (very good on the leg and foot, he says), gotten the mail and by accident I opened a letter to Lil from Huff on her appeal, the date of which she manages not to give, from FBI withholding. You know how they say they do not discriminate against me, how everything is in order of receipt? Well, it was exactly 50 months ago today that she filed her appeal. When I saw the Justice envelope I didn't look at the addressee and just opened it. She is away this morning, preparing the tax return of a maiden lady who is close to 90 and who just inherited the estate of her sister, whose taxes Muf always did. So, I do not know what she will want to do. I glanced at the first page of her appeal and have only a slight recollection of it. She was sickened at the records she saw and asked me to do the appeal. I'll have to read it to remember and understand more but because it is long and detailed I'll wait and see what she wants to do. If she does not want to do anything, I'll not bother to read it. However, I did notice that in it, 50 months ago, I did refer to the inordinate delay. I presume this meant from the time she filed her request.

My purpose in this is merely to call to your attention the fact that even with my wife, addressed for some reason as Ms. instead of Mrs., they can't even be straight and honest and do stonewall. Which makes me wonder why they are doing anything at all now.

I also noticed that they now offer to search the see refs. That they should have done long before 50 months ago and that they have never done or offered to do for me. Not that I can recall, anyway.

I'm sure she'll have no objection to my sending you their letter and the first page of the appeal, which you probably have, or all if you'd like.

Best,

W. Mufnagel

4/24: Lil decided she wants to know about the see references and she asked me to write them again. So, I read what Phyllis drafted for Huff to sign and I also noticed that she attached a joint appeal of a little later, still not acted on. Lil did file a request for field office files and that still has not been searched. The date of Lil's appeal is 4/4/80. The stuff they disclosed on her is historically important as it relates to the FBI. They tried hard to get her held to be disloyal and fired by the conservative Texan who headed the RFC. He refused. What made her disloyal to the witnesses used by the FBI, not one of whom questioned her loyalty, is that she had poor vision and wore thick glasses, did not dress fashionably (on those depression-days

salaries, I think about \$35 a week, maybe a little more, (when we were both helping widowed mothers and others), that she belonged to buying cooperatives, which it then was government policy to help, and had a brother who went on strike when he was a bellhop and they went on strike. But I emphasize to you the evidence this is that they do discriminate against me, even against her, and even after their Senate testimony took four years to even respond to this appeal, without addressing some of its content, as today's letter indicates.

We await a service call on the copier. If you want another copy of her appeal, let me know. If you have any need, it may be easier for us to make it than for you to search for it.

Mr. Richard L. Huff, Director
FOIA/PA Appeals
Department of Justice
Washington, D.C. 20530

4/24/84

Dear Mr. Huff,

When my wife received your letter of the 30th she was again sickened and disgusted and asked me to respond for her. When I reread what she had asked me to send in for her in her appeal of more than four years ago (like you people like to boast in court, first-in, first out, Open America), after all my experience I share her emotion. It is not easy to believe that the awful stuff accumulated by and sought to be created by the FBI was really by an American agency and not by the KGB or Gestapo. But we both thank you for the thoughtfulness of attaching a copy.

You do not act, after more than four years, on specific parts of her appeal. For example, she requested the pertinent FBI field offices be searched and they were not.

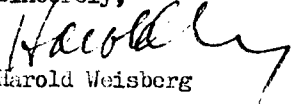
Her original request included all see references. She is still interested in them but after more than four years is not willing to go to the bottom of the FBI's list. So she asks for an estimate of the cost of providing those references. You know with whom in the FBI you have been dealing and I enclose a copy for the FBI.

You also attached a copy of my letter to the FBI of 5/31/80, copy to your office as a joint appeal. You still have not acted on it, after four years. Nor has the FBI. That appeal also includes the field offices search in the last paragraph.

My wife requested a search of the U.S. Attorney's office, it is unreported and you do not act on that part of her appeal. You do appear, however, ^{to} ~~to~~ have made a (b)(5) claim to withhold information ordered to be provided by the federal court in Baltimore but of which copies were not provided. Instead I was permitted to read them. (You have never acted on my appeal from the Civil Division's failure even to respond to my request for that material, which does have historical importance, that case having established a precedent.)

I believe that some of the see references to my wife have been disclosed to others.

Sincerely,


Harold Weisberg



U.S. Department of Justice

Office of Legal Policy

Office of Information and Privacy

Washington, D.C. 20530

MAR 30 1984

Ms. Lillian Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Re: Appeal No. 80-0312
RLH:CJS:PLH

Dear Ms. Weisberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to yourself. I have enclosed copies of the appeal letters for your reference.

After careful consideration of your appeal, I have decided to affirm the initial action in this case. You are the subject of four Bureau main files--Bureau Applicant, Federal Tort Claims Act, Internal Security-Hatch Act and Loyalty of Government Employees. Certain information was properly withheld from you pursuant to 5 U.S.C. 552(b)(7)(C) and (7)(D). These provisions pertain to investigatory records compiled for law enforcement purposes, the release of which would, respectively, constitute an unwarranted invasion of the personal privacy of third parties, in one instance by revealing an investigative interest in that person on the part of the FBI, and disclose the identities of confidential sources and/or confidential information furnished only by such sources. Names of Bureau agents were among the items excised on the basis of 5 U.S.C. 552(b)(7)(C).

All of the information protected in the Federal Tort Claims Act file was compiled in anticipation of litigation and will continue to be withheld pursuant to 5 U.S.C. 552(b)(5). Such material is exempt from the access provisions of the Privacy Act. 5 U.S.C. 552a(d)(5). None of the information being withheld is appropriate for discretionary release.

For your information, the material previously withheld from you as "outside scope" and "other" will continue to be withheld on the basis of Exemption (7)(C). I wish to assure you also that our review disclosed that Exemption (7)(D) is not being used to protect the identity of a federal agency.


With reference to your letters, I wish to advise you that the Bureau is willing to process the see references to you upon your agreement to pay applicable charges. Please contact the Bureau if you wish to pursue this matter further.

- 2 -

Judicial review of my action on this appeal is available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, which is also where the records you seek are located.

Sincerely,

Roger B. Clegg
Acting Assistant Attorney General

By: 
Richard L. Huff, Co-Director
Office of Information and Privacy

Enclosures



U.S. Department of Justice
Office of Legal Policy
Office of Information and Privacy

Washington, D.C. 20530

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Roger B. Clegg
Acting Assistant Attorney General

By: 
Richard L. Huff, Co-Director
Office of Information and Privacy

Enclosures

Mr. Quinlan J. Shea, Director
FOIA/PA Appeals
Department of Justice
Washington, D.C. 20530

2/4/80

(A)

FBI
80-0312

WEISBERG, LILLIAN

APP

PA

Dear Mr. Shea,

It was necessary for me to be away all morning. When I returned the mail had come and my wife had about completed reading the file on her sent by the FBI. She told me it sickened her and she asked me to file her appeal. I read, really skimmed the file in haste and later we discussed it. Not as much as I'd have liked but in fact it sickened her, as I hope some will you. Meaning I hope that you are not totally inured to the totalitarianism that proclaims itself the only true patriotism and, naturally, the only true Americanism, which is why it sits in judgement on others all the while proclaiming that it never does.

You recall the assurances given the Abourezkh FOIA subcommittee some years ago, by you on some matters and in your presence on others. You are also aware of your testimony on deposition in C.A. 75-1996. So I think that whatever you respond should include the date of the request and an explanation of the inordinate delay, even in terms of that backlog so much of which the FBI creates for itself and its perpetual excuse for stonewalling. Meanwhile, you might also inquire into the reasons for delay in setting on an appeal that I'm pretty sure included or was limited to the Civil Division. This also might be reported in terms of Civil's backlog, if any.

What sickened my wife is the overt corruption of the records, entirely incomplete as they are, relating to our successful suit against the government for the ruin of our farm by low-flying military helicopters, as well as being reminded of that ruin. What I would hope would sicken you is the persistent effort to find that somehow she was disloyal, a menace to the country, unpatriotic and perhaps even ready to throw bombs. The more the FBI was told that she is the personification of true patriotism the more it persisted (as I recall two pages listing informers are withheld) in efforts to be able to have the opposite concluded. Those who knew her spoke, I'm sure you'll agree, only in the best terms of her, save for a few who are self characterized, and they had no doubt about her loyalty.

My wife was a Communist, it seems, because she wore thick glasses and inexpensive clothes - during the Great Depression - and because she wore lisle stocking and believed in so much that has only recently become national policy, despite the supposed Constitutional assurances. In the 1930s she was opposed to the barbarities of the ~~Spank~~ Japanese and to racism and wretched living conditions.

Being born with defective vision is about as reasonable a measure of true unpatriotism as those great patriots in the FBI could report. With all that it managed to omit. Not wearing French frocks on a salary of about \$35 a week also made her a national menace.

She was never around on weekends, but I can assure you she was not off getting Moscow gold, despite the accurate reporting that she was not in Washington. She was up with her mother, a widow, and aging grandparents. I took her there, and we provided the weekly groceries, with less help than I'd have liked from me because my mother also was widowed and I assumed the mortgage when I was not old enough to vote.

While without doubt there were other women we knew who also wore lisle as a means of detachment from as well as protest of the Japanese atrocities, the ~~only~~ other ones I remember who I then knew were a daughter of Senator Wheeler and Abe Fortas' wife-to-be, Carolyn Ager. I also remember very clearly an incident in the Senate Office Building, where we both worked, when a respected Senator a history buff should recall, aging George Norris, whose vision was impaired stopped my wife. It was near the entrance closest to the Supreme Court Building. He said, "Young woman, you should wear lisle hose," which she was in fact wearing, and for the reasons he gave her. (Of course there were then those who considered that Republican eminence a red because he was the father of the TVA.)

The more people reported the great dependability of my wife as an employe and friend, how good a human she was, albeit one not averse to saying what she thought if asked, the more she was spooked.

Under the excuse for this persecution, which included several proceedings some records of which are included and could have ruined her for life, there had to be a

complainant. Only I do not recall any in the file. The alleged basis for it all is her alleged membership in some committee, as reported by the Dies committee, whose own records reflected the error of the report: she was not a member but somehow had been ~~added~~ added to its mailing list.

How she could have gotten on that mailing list is obvious from the records provided: she believed in and was a member of cooperatives. (This also is ^{the} total yield ~~of~~ of both mail cover and garbology, as I reported to you earlier relating to me.) The great^{est} sin, of course, was belonging to the cooperative that sold books and records for 20% off. (I don't know what ^Uerman book could have been seen on her desk, unless it was an anti-Hitler one, but I do know that she never had any ^Uerman marchings songs.)

But then there were those true patriot~~s~~ who considered cooperatives a subversion.

The file begins with an incredibility: someone for whom she worked and who had high regard for her also knew either Director ^Hoover or his secretary, Helen Gandy, because he wrote Ms. Gandy a personal letter of recommendation. (My wife does not recall this.) I suppose there are those who might consider that my wife was not in good company if in association~~s~~ with those having an inside to the top of the FBI. In any event, I think we are both happy over that one. Without her not making it with the FBI I'd never have met her. She soon thereafter was detailed to where I did meet her.

The FBI is ~~con~~istent in its concerns over privacy. It had this concern for my wife's privacy in the 1930s and in 1980 is so concerned about the privacy of SAs that it withholds their names after 42 years. There was no privacy for my wife, suggested to be red by the questions asked of so many, but there is for those SAs. I know why from the deposition testimony in C.A. 75-1996 and from the lips of the FBI in several meetings: if an SA goes under cover he can be endangered ^{if} his name is not withheld. Those of these reports would surely be the greatest ^{undercover man} - after more than 42 years of FBI experience!

Or maybe they felt that they had to be consistent and withhold those names if there were going to withhold SA names from the helicopter reports of the late 1950s and early 1960s. (We^{re} these pershaps the youngish FBI faces in this morning's paper

relating to ABSCAM? Of course when there can be a good press for the FBI, ~~the~~ the names and pictures appear ^{yet} these are the ^{SAs} who have been after top criminals, who appear to have had some organization, ^{So of course} there is no danger to them from their names and pictures being all over the front pages, if not also on TV.

The real need to withhold SA names, as I informed you long ago, is because one of them suborned perjury in the helicopter case. (Not that we could do anything about it now, 20 years later, if my wife should recall the name because she knew the family somewhat.)

These helicopter reports, while extensively incomplete, nonetheless include records not provided to me under my 1975 request - and prompt appeal you've not acted on. I am aware of your promises. You were ~~ask~~ ^{last} about to do something this past ^{December}. What shocks me about these is that they also hold ^{other} proof of the subornation of perjury in that case, with the Government suborning the perjury of its own witnesses also! If you have any interest in specifics I'll provide them when we get the still withheld records, including those of the field offices, which are totally absent.

The names withheld without there being any indication that privacy was either offered or ^{ask} include those of these Government witnesses. As you testified, for a privacy claim to be made there must be a ^{privacy} to protect. There was a public trial of the case and I did win, despite all the perjury. So the names are not secret. However, to ^{make} it appear that there was no live witness there is no reference to all of that. Only to the FBI's proud boast ^{that} it "saved" \$9200. The cost of the investigation and litigation was considerably more than what the FBI claims to have "saved." Moreover, this "saving" led to a precedent and that cost ~~millions~~ millions. And then there is the fact that it made my prevailing in the second suit automatic, and from what I received out of court alone more than this ~~was~~ ^{boasted} "saving" was the cost.

The more I see of the FBI the more I come to believe that Otwell spent some time in it.

^{This.}
I'm not trying to organize it. It disgusts me and I want to get it over with.

While the excisions are appealed, more important is what was not searched and provided, the see references and the field offices. The field offices which have records, from ~~the~~ ^{records} provided, are Richmond, Washington and Baltimore.

Two privacy claims are made, other than for the names of aging if still alive SAs, k2 and k5. I don't recall a single record that states there was a promise of confidentiality. There are a few stating that those interviewed would not testify. After more than 40 years, if those persons are still alive, do you really visualize harm to them? I doubt my wife is interested in knowing which the Neanderthals were, but I do believe she would like to know which spoke only so extraordinarily well of her when she was a young woman. (She'll soon be 69.)

How does one declassify an unclassified record? The FBI claims to have done this. And how does one declassify other than as specified by the EO? The FBI has not declassified in accordance with the requirements of the EO. There is one classified record I recall, although there ~~may well be~~ ^{may well be} others. It was confidential, 40 years ago. ^{Does} this qualify for continued classification in 1980?

The note added to the form ^{with the FBI's letter} states that there was a referral of but a single record to a single agency. However, referral slips, holding even less information than those with which I am familiar, are used, for more than one documents, for varying numbers of pages, and without the agency being identified. Is it necessary, if proper, to withhold the name of the agency? How can a requester know which agency if, as is not uncommon within my experience, that agency does nothing at all?

The note does not explain or justify all the withholdings of official names, which is not limited to SAs and does include those in public functions, ~~this~~ ^{This} to say that the FBI is consistent in the improper and unnecessary withholding of the public domain. I doubt my wife has any great personal interest in them but please remember that these are also historical records, to be deposited in a university archive that is not focused on a whodunit but on how government worked. This kind of information, then, is relevant and not insignificant. Now that nothing can be done about it, I believe particularly important is a full record of what happened to us

relating to the helicopter suit, how government then worked when the FBI detested me and the Army was determined to play ostrich with a major problem. There also is the irony that should not be lost for those who may have some interest, how all of this, as did virtually all other FBI dirty-trickery, kicked back. There was the court decision adverse to official interest, establishing the property owner's air-space rights as a Constitutional right. Can this explain the total absence of any reference to the second suit, where the Department settled out of court for much more than the FBI claimed to have saved?

If you read what was provided, 128 pages with many repetitions, you will detect reference to and quotation of other records not provided and within the request.

There are references to Department records also not provided, especially what I have asked be searched in response to my PA request, the offices of the USAs.

This release includes records relating to me that I do not recall from those provided to me in 1977. Conversely, I believe those records held references to my wife that are not included in the records now sent to her.

The simple factual error in these records is astounding, especially considering that the futures and lives of Americans and their families were controlled by what the FBI provided other agencies and kept prodding them about. (In my wife's case it may interest you to notice that the conservative businessman, ^{Tyrum Jesse Jones,} who had been correctly informed about my wife's character and quality as an employee, told the FBI to blow it.) While today there is no opprobrium attached to being pro-labor or on a picket line, the fact is that despite her brother's participation in a strike she did not picket. The hotel is not the hotel of the records, not the Roger Smith but the Willard. However, this view of the past and its attitudes and what the FBI considered important and in the interest of national security may interest you. Believing as the President then did and as most Americans believe today was then, to the FBI, indication of subversion. Some of those interviewed even believed it wrong for those who did not have a decent life to want or have one. Fine witnesses!

Can you visualize the great danger to the nation that required such surveillances

our
as mail and garbage?

How can anything relating to the investigation of my wife be "outside your request?"

One record, of October 1948, classified confidential, has a notation reflecting declassification in 1978. What was the occasion? If in response to this ~~my~~ request only, how can the delay of more than an additional year now be explained?

How can a report from the "Loyalty" review board to the FBI stating no more than what my wife knew, that she had been "retained" despite the FBI, be properly classified?

Some of the records are illegible. My wife would like to be able to read them, and making a copy closer to the original would enable this. She is interested in the illegible search slips and any records noted but not provided, *but not in them only.*

If the above declassification was the result of FBI referral, how can the failure of (at least) State to act on referrals after ~~more~~ more than a year be explained?

I have already informed you of records relating to my wife that are not included. If they are in the field office only they still are within her request and I made it for her years ago.

As you know, all our files are to be part of a university archive. So a few comments on the records provided will serve some interest and may also be of interest to you.

We are reported only to have been helpful to others, in some reports more than usually helpful. In one report relating to me this is bracketed with my also being a Communist. Why? Because I appear to have complained about the buses not running on schedule. I never used the bus. I drove my own car, so any such complaint was not in personal interest. But how can this be evidence of whatever is meant by disloyalty? How can it justify pushing for any action, *on my wife.* ~~and~~. On what evidence? That my wife believed in cooperatives? She had no other memberships? She belonged to a book and an medical cooperative, according to these incomplete records, ~~she~~ (she also belonged to the grocery or food cooperative.) She belonged to

a local woman's cooperative relating to shopping and thus received the literature of the recognized national group with which it was affiliated. These functions, despite the FBI's attitude of regarding them as subversive, are now part of the functioning of government on all levels. (With the references to my gardening I don't know how they missed my having a very large victory garden after my medical discharge from the Army and provided fresh vegetables to the Washington food cooperative. Well, the tomatoes were red, anyway.)

The Great Depression is known to you, probably, only through reading. It was unknown to the FBI, which also at least pretended no awareness of how people survived, contended with it and help^{ed} their government, aka were disloyal. Among those I can remember helping in those days, by providing a place to live and often by helping them get war-service and depression -service jobs, are a man who later headed a state agency; one who is still a supreme court justice; if not chief justice, in a state; one who later headed egg-heads for Eisenhower; ~~one~~^{one} who won a TV Emmy; and among others one who later rose to be the ranking and much-honored highest-ranking civil service employee of an important federal agency. Among the people my wife put up with is a psychologically shocked soldier who had just returned from a hazardous intelligence mission overseas. (He was still a youth, had no family at all, OSS asked this of my wife and me, and he slept in our living room for six months. ^{the we also fed him - free} We had no spare bedroom because we slept in the attic to make space for the wives of two soldiers.)

If I did not question my wife about what sickened her, other than being reminded of what she lived through in the helicopter matter, does this off-the-top-of-the-head reporting not give you an indication of what should sicken any decent person?

Of course she now knows more of what was so costly and tragic for us, the helicopter matter and litigation. She now knows that her Department of Justice defrauded her and to do this was willing even to suborn perjury. She had known this of the FBI only, as I've already informed you.

Now that the mountain has begun to labor, can you let us know when we can expect the rest of the mouse?

Handwritten signature

5/31/80

Dear Mr. Flanders,

When my wife handed me your letter of 5/30 and its enclosure she said, "This is all about you."

You included, from WFO 121-3454, pages 16, 17, 18, 19 and 33. Of them you told my wife, "Department of State material in our document pertaining to you is bracketed in red." But as she told me, it pertains to me, not to her.

So how come neither WFO nor HQ provided this in response to my PA requests?

You failed to inform her she can appeal so for both of us I do appeal, by a carbon to Mr. Shea.

On page 16 you claim a non-source is a confidential source in (Obliterated) refused to furnish a signed statement or to appear before a loyalty board."

I am amused by the FBI's inaccuracy on page 17 and I ~~share~~ share it with you on the off chance that anything as grim as these matters can amuse you: "It was noted Mr. WEISBERG worked on a report entitled 'Activities of FRANCO Agents in Other American Republics, I Argentina.'"

No such thing. But I did prepare a report I was told was to be used at the UN on the influence of the Spanish Falange in Latin America, not Argentina. It resulted in the only adverse criticism I remember of my work of that period, and it was all the fault of the FBI.

That Division got a new chief, a caricature of the stuffed-shirt college professor. He read my report, called me in and pontificated, "No scholar worthy of his salt would use the FBI as a source." And honor bright, Mr. Flanders, I did correct the FBI's errors, like calling a University of Pennsylvania doctoral candidate doing his thesis on the Falange a member of it.

Please don't fret because he had another criticism. I quoted a previous United States presentation about the Falange to the UN and he didn't like what I used. No wonder - he wrote it years earlier. (Guess he wasn't much on checking footnotes.)

On page 18 two paragraphs are entirely withheld, but there is no claim that nothing in them is reasonably segregable. The claim is 7D, as it is for the name of an agency in

2
the second paragraph on that page. My recollection of the legislative history of the Act is that the claim is for persons only.

The withholding of the reasonably segregable appeal is intended to apply throughout.

Your people may have known what was wanted of them but they got carried away a bit in "The investigation conducted by T-7 . . . went on to show that WEISBERG formerly worked for MAURICE HALPERIN X and that besides having worked for him, he was friendly with (obliterated)." The exemption claimed here is new to me. It is "Other."

I know you people are happier stretching the Act, but do you get kicks out of creating new exemptions, too?

If you intended 7C, how come for those others and not for Halperin?

I was a lot friendlier with a number of FBI SAs that with Halperin. I never got drunk with him but I did with some DAs. In fact I can remember but two of my fellow employees with whom my wife and I visited back and forth and of them one was a prominent Republican.

T-7 is a State Department component. Do you suppose that they didn't know I was its employee, not Halperin's? In fact I knew Halperin only through his government employment, as my superior.

(Your file on him is not up to date if it does not include his anti-Castro books.)


You should be able to provide a legible page 33 rather than writing over the one line not excised and I ask this, with disclosure of the reasonably segregable and without extension of 7D.

Please remember also that more than three decades have passed in asserting any claim.

Given the success of your campaign to frustrate the Act I do not expect you to entirely abandon it by reducing what is unnecessarily forced on the overloaded and understaffed appeals staff, but it would be kind of nice if you cleaned this up on your own. For once.

If you had to begin with it might not have occurred to my wife to file requests with field offices, as you nudged her into doing, she tells me.

Sincerely,


Harold Weisberg