Mr. Emil Moschella, chief
FOIPA Section
FBIHQ
Washington, D.C. 20535

2/5/90

Dear Mr. Moschella,

Your two-sentence letter of January 29 acknowledges receipt of my letters of January 8 and 4 and that "They have been made a matter of record."

I've been wondering since what the FBI means when it says it is making something a matter of record. This is in part because I do not recall that it ever said this to me before and in the hundreds of thousands of pages of FBI records I've read I do not remember having seen that it was making anything a matter of record. When I get from you records relating to inconsequential things of almost a half-century ago, like reports on the establishing of a picture magazine, CLICK, records still on file, it does seem that almost every record remains as a matter of record absent some special meaning. If there is one, as a matter of record, I would appreciate being informed.

My requests for records on or about me began about 15 years ago. They have been renewed and appealed regularly. In doing this I have specified, not infrequently with the FBI's specific identification of them, including file numbers, records it has, has not provided, and has not claimed are exempt. Or, relevant records that it should have provided and did not provide.

In my letter of January 4 I state, with regard to records I had just received, that "(t)o even casual examination...it is clear that these disclosed records refer to others that are not properly subject to withholding and are not provided to me."

Saying no more than that you are making this a matter of record is not responsive under the law. You do not provide the withheld records and you do not dispute my statement that you have them and that they are relevant. It happens also that these particular withheld records are those the existence of which I called to the attention of your section several times in the past and also filed formal appeals relating to them, both without any response from you or from the appeals office. I want to make a matter of record your violation of both the law and your obligation under it.

Referring to a record relating to the late Charles Flato and your claim to (b)(7)(c) to withhold , 77-14177-27, this record includes references to me. I called this to your attention because it is a record I should have received from the Washington field office in response to my requests of it and all other field offices and did not receive. Is your responsibility under FOI and PA met when you say no more than that you are making that letter a matter of record? I think that under the laws you have the obligation to provide it and other such records or to claim an exemption for them. You have not.

Then I said what were our positions reversed I certainly would have wanted to address, that you were untruthful in telling me that the records I had just gotten "concludes the processing of all retrievable, identifiable information indexed to your (my) name." Your records hold undenied and countless examples of the untruthfulness of this statement in what I sent to your office, often with the file numbers of the relevant and withheld records. What I quote in the preceeding paragraph is merely one illustration of this. Others are included in some of my more recent efforts to inform you and to get you to comply with the laws. The attachments to my letter of January 8 privided you with some of these more recent instances. I'd forgotten to include among those attachments my letter to you of April 6, 1989. I informed you that it also refers to existing FBI records that are within my requests and remain withheld. I also state in that letter that the FBI itself disclosed their existence to me.

I have informed you that my requests include all records of electronic surveillances and that they also are included in my C.A.75-1996 and that in that litigation the FBI informed

Judge June Green untruthfully in representing that it had no records of that description. Aside from what you disclosed to me recently reflecting the fact that I am included in them you have disclosed to others from whom I obtained copies three other instances of my being in such records.

You do not deny my accuracy, you do not claim any exemption, and you make this no more than "a matter of record" and I say again that this does not meet your obligations under the laws.

I also filed appeals relating to the foregoing, Nos. 89-1123 and 1170. Under date of January 19, 1990, the appeals office wrote me that it had "consulted" with the FBI and the FBI had told it that it did not know what I was talking about. Included in my appeal was a letter to you about those records. With them you did not provide any FOIPA number, which the appeals office represented that it needed. I had called this to your attention, so the FBI and the appeals office both knew this. In addition, I referred specifically to the date on which I received those records and that should have eliminated any question at all, had one existed, as it did not, about which records I was referring to. It was, as the FBI knew very well, the records I had just received and that there could not be any mistake in this because it had been some time since you had sent me any.

Because all of this involves the integrity of the FBI and its employess and because as a practical matter there isn't much I can do about your determined dishonesty and flagrant violations of the laws, I want also to underscore the fact that those records you sent me more recently should have been provided almost 15 years ago and were not, are relevant, were indexed and in response to many requests which the FBI ignored and many appeals that also were ignored remained withheld.

There is another matter in my letter of January 4 about which you are required, if you want to abide by your own regulations and the law, which you apprently prefer to bypass, to do more than make a matter of record. It refers to a separate FOIPA request I made about three-quarters of a year ago. I seek and in it sought information about who made the request for or under which you are disclosing your selection, which is incomplete and prejudicial, of information relating to me. Under date of last July 31 you told me that you then were searching to comply with that request. You are also required by your regulation to process any non-project requests, which that certainly is, in the order of their receipt. You have that big a backlog? The searching to comply with that request is all within your own office. If you were in fact conducting that search, which seems to require no more than a few minutes at most, why have you not complied after more than a half-year and why do you consign that separate request to matters of record?

For your convenience, I attach copies of my two cited letters.

Sincerely,

Harold Weisberg

Mr. Emil Moschella, chief
FOIPA branch
FBIHQ
Washington, D.C. 20535

1/4/90

Dear Mr. Moschella,

The records you sent under date of December 15, 1989, your No. 277,836, came when I was hospitalized, recovering from heart surgery. I remain weak from it, under medical restrictions limiting what I can do and am more limited in what I can do. However, I was able to skim them, I've made copies and provided them to Jim Lesar and I've asked him to look into the entire matter.

It is apparent and in fact, invited to deny it, you have failed to deny that you are now making available to others records relating to me that you and others in the FBI have consistently denied me for about 15 years - and this despite my many appeals to both the FBI and the stooges it has in what is euphemistically referred to as an appeals office.

The records just disclosed to someone else, copies to me, are selected by the FBI and are not by any means all such records in its files. This suggests what I've believed since first writing you about this more than six months ago, that the FBI is and has been contriving further defamation of me by misuses of the laws. To even the casual examination I made it is clear that these disclosed records refer to others that are not properly subject to withholding and are not provided to me.

As soon as I learned that I am the "subject" of the disclosures, which seems to be contrary to the position the FBI has taken in innumerable of my own FOIA suits and to the position the FBI has more recently taken in other such litigation, I wrote you and made a simple request relating to the nature and makers of these requests. That request was made last June. You've not responded since. I am confident that your backlog of such simple requests is not more than six months old. You sent me a form dated July 31, 1989 stating that you then were searching to comply with this request. It simply cannot have taken all that time to learn the simple answer and to comply with so simple a request.

It is not possible for me to now provide all the relevant correspondence but I do enclose for your convenience, with copies to Mr. Lesar for his, some of the relevant correspondence you and the FBI have ignored. I think it is enough to indicate that the FBI is not within the law, does not intend to be and in fact is quite dishonest in this matter, the dishonesty extending to those who act for the FBI. I remind you still again that neither you nor anyone acting for you has denied these allegations.

The FBI's referral to the Army that is the subject of my enclosed letter to it invokes my rights under the Privacy Act, to correct false statements. I was never a Communist and never told anyone I was. From the coverages it had the FBI should be well aware of this. I ask, under PA, that in any disclosure of this false and defamatory record the FBI makes my statement that it is false also be made. I understand this is the requirement of PA.

You also sent me a copy of 77-14177-27, of which the subject is the late [redacted] Charles Flato. He died several years ago after a respected career as a medical writer. This is to say that the b7C claims have no basis. I include this because I do not recall receiving any such record from the Washington office in response to my requests of it and all other field offices for records relating to me. This and innumerable other illustrations like it that I have provided the FBI, including you, personally over the years, makes a gross and deliberate lie of the penultimate sentence in your 12/15/89 mailing: "This release concludes the processing of all retrievable, identifiable information indexed in your name." This came to me over your name so I have absolutely no reluctance in saying that you lie and you know you lie. More, I don't have to make a search, which is not possible, to be able to remember quite a number of records the existence of which you have disclosed to me that are within my requests and remain withheld. Sincerely, Harold Weisberg

Harold Weisberg

U. S. Department of Justice

Washington, DC 20530

JAN 19 1990

Mr. Harold Weisberg
7627 Old Receiver Road
Route 12
Frederick, MD 21701

Re: Appeal Nos. 89-1123
and 89-1170
RLH:MAP:JPA

Dear Mr. Weisburg:

This responds to your letters dated June 25, 1989 (Appeal No. 89-1077) and July 3, 1989 (Appeal No. 89-1123). After consultation with the Federal Bureau of Investigation, I am unable to determine which, if any, of the releases made to you by the Bureau you are seeking to appeal. Accordingly, I am closing the files in these cases at this time. If you are, in fact, seeking to appeal a specific release made by the Bureau, please specify the FOIPA number and the date of the release, and this Office will open a new appeal.

Insofar as your letters express dissatisfaction with earlier actions of the Bureau in releasing information about you to third parties pursuant to the Freedom of Information Act, I regret that this Office can be of no assistance in that regard.

Sincerely,

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