

Mr. Richard L. Huff, Co-Director
OIP
Department of Justice
Washington, D.C. 20530

3/16/90

89-1077 & 1123

Dear Mr. Huff,

Your letter of the 14th makes me wonder if I am better off with your usual practice, of ignoring my appeals, or with your lying, as you do in this letter. (I ignore another alternative because Co-Director Metcalfe used it only once, referring my appeal from an FBI decision to the FBI for response. I guess I should say overtly once.)

Among the basic things to which you do not respond at all is the fact that in the disclosure of some of these records about me to a third party the covering FBI sheet, a copy of which I sent you, says I am the "subject" of the request. It has to be apparent from your letter that if you are not lying about this the FBI certainly did!

My appeal from the FBI's failure to respond to my request for the information relating to the disclosure of records relating to me was (a simple request requiring no search at all) was last June. Are you that far behind in responding to simple appeals?

You begin by referring to your "further investigation." Besides the fact that you clearly have done nothing that can reasonably be called an investigation, you did have a member of your staff speak to a lawyer friend who does not represent me in this but he did not speak to me and he did not respond to the letter I then addressed to him. So I have another wonder: am I better off when you "investigate" and then lie about it or just ignore me?

This is in the second paragraph of your letter. I ignore the nonsense that follows immediately and quote the last sentence in that paragraph: "As you know (and I sure as hell don't know any such thing!) at that time FOIA processing was in its infancy at the bureau, law enforcement records having been exempt from the FOIA in their entireties prior to 1975."

I remember very well how the FBI rewrote the 1966 Act using me to do it - in the case over which the Congress amended the judicial rewriting of the act to restore its original and legislated intent. It accomplished that by lying under oath by the FBI and by lying to the court through its counsel. It prevailed in that case by telling the court that the attorney general decided it would not be in the "national interest" to disclose those non-secret records to me. This not only was a lie, as my counsel thereafter was able to prove, but it is, according to the legislative history of the 1966 Act, a reason for that act, "national interest" having been the excuse for not complying with the provisions of what I believe was called the administrative practices act. The legislative history is quite specific, "national interest" was not an excuse for withholding.

Moreover, until the FBI decided it could rewrite the act before the judge sitting on that case, it had disclosed law enforcement records to me.

FOIA was enacted in 1966. You are now telling me, withough shame, that were the date to be 1975, as it was not, "FOIA processing was in its infancy"?

The Meerpol records were not processed in 1975. Maybe the lawsuit was filed then but the processing lasted some time, several years. And the amendments were the year before anyway. My initial request for all the records relating to me was in 1975, but the FBI did not process any of them then. It was quite some time later before it processed any. and it was quite some time after that that I began to appeal. And appeal. and appeal. So where do you get off with that 1975 jazz?

I was before the same judge at the same time as the Meerpol brothers. That judge asked the Department, through Civil Division, and me to cooperate with your office, then headed by Quin Shea. The Civil Division lawyer refused to go there but my lawyer and I went there directly from the court room. To do what the judge and your office asked of me I went to an inordinate amount of trouble and for no reason.

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me I went to an inordinate amount of trouble and work and for me considerable expense after I was first hospitalized for venous thrombosis and your office, unless it threw them away, has ~~them~~ overfilled file drawers. Or at least my copies take up ~~them~~ full drawers. Most of these are not related to my requests for records on me but there is an abundance of those appeals in it, more than enough to cause you embarrassment if you can get embarrassed over any of this - should, say, the Congress get interested. Those appeals are thoroughly documented, and the appeals relating to records on me have countless copies of ~~the~~ FBI records attached giving the file and often serial identifications of other relevant records still withheld.

And this does not include the many, many hours spent in personal conferences with your office. This included my citations of existing records on or about me.

Your next paragraph is a lie from beginning to end. You say in it that in those "infancy" days the FBI was processing only main files. It was searching "see" references in 1975 and in addition to the many other sources available to you, assuming you are ignorant enough about your function and responsibilities not to know it, is my own 1975 litigation in which the FBI testified to searching "see" references.

Moreover, most of the records on me it provided to me beginning quite long ago are cross-references, or "see" references.

The last sentence in this paragraph says you have been assured by the FBI that it ~~is~~ has now processed all references to me. Maybe Moschella did tell you that, but you have my letter to him responding to his, that I have been provided with all records to which I am indexed, telling him that is a lie and giving him proof. So what is your appeals function, the reiterate FBI lies and ignore documentation of them?

The fact is that some of the records on me released in the Silvermaster case records (I think the FBI refers to it as the Gregory case) were required to have been searched through the FBI indices in my C.A. 75-1996. I requested all records of all electronic surveillances on a number of people, of whom I am one. (That lawsuit centered on the King assassination records.) The FBI indexes those records under subject, overheard and mentioned. It assured that court that I am not in the electronic-surveillance indices and so told you office. It lied and your office accepted that lie then as you do now. Moreover, as I told you and you could not possibly have checked and written me this letter, I am in several other files holding electronic surveillance records and I have copies of some of those records that were disclosed to others.

Your next paragraph refers to the Silvermaster records being in the Meerpol case and thus are disclosed. But that ignores my ancient appeal relating to precisely those records. I was given copies of some that made no reference to me but what I saw in them led me to believe that I also was in that file. I then filed an appeal stating that I had reasons to believe that records responsive to my request were in that file and I was lied to and told that I was not in them. This is to say that in addition to giving me falsehoods in pretended response you are also ignoring the fact that I did appeal the specific withholding as well as the fact that only last year the FBI stated that I am the "subject" of the request under which those records were disclosed to a third party.

You follow this with a real doozer: the importance of the Rosenberg case records recognized by the Deputy Attorney General. That, as I do presume, is a more important finding than that of several attorneys General, or in the case I cite above, the King case? Of Mr. Tyler's decision you say that "the FBI has only withheld information relating to third parties in those files when the information itself is of a derogatory ~~and~~ character." Where have you been? What have you been doing? Most of the withholdings of names in the JFK and King assassination cases have been of those where there is no derogatory information! Are you yelling me that the decision of Attorney's General are not as important as that of a deputy, or that the Silvermaster records are more important than those relating to the assassination of a President or a man like Dr. King?

You assure me I was "in no way singled out for special treatment." You do not say whether you mean by the FBI, by your office or both. In any event, the record is more

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than abundantly clear, this is false as it relates to both. I don't think any more than I have already stated with regard to the FBI in this letter is needed to make the point but I add to what I say about you and your office a recent illustration. For the sake of what reputation you may think your office has please explain to me how it is not singling me out for special treatment to tell me that if I provide you with the information I gave you a half-year earlier you will put that appeal on the bottom of the stack.

This is relevant to what you wrote me about. The FBI sent me records without any FOIPA number with them. My appeal was specific in stating this. I also told you when I received those records. You needed no more to make specific identification of them but you rejected my request on the false basis that I had not provided proper identification.

If I am not mistaken, you once told me that nobody had ever provided your office with as much information and assistance as I had. I have no way of knowing what you kept and what you threw out. I also have no way of knowing what you know personally, other than what I wrote you, all of which I do not pretend to remember. Or who drafted the letter for you or what he or she knows, if the other initials refer to such an associate.

But I do know this: I have copies of what I gave your office, including the attachment of FBI records. And I am telling you now, and not for the first time, that there just cannot be any question about it, the FBI has and it knows it has quite a few records responsive to my 1975 request and the numerous repetitions of it and my many, many appeals.

Unless you can show me older cases, I am entitled, under the act and your regulations, to this matter being handled on a first-in basis. I am asking you now for your assurance that at this late date I will get it, and without any more of these self-serving lies, whether to you, by you or both.

I am outraged that at this late date you, plural, are behaving this badly. I am well aware of the many limitations I suffer but if I do not get a meaningful and honest assurance that you will abide by the law I will see what I can do. I do not know whether any Senator or Congressman can be interested but I may decide to find out. I understand that recently Congressman Edwards held some hearings.

And I remind you that in 1977 The Senate hearings included what I had nothing to do with, questions asked of the FBI and the Department about some 25 of my requests that had been entirely ignored. The Department assured the Senate that that would change. It did not change, witness this letter of yours.

There is another part of this matter that you ignore, the Hayne case records. The FBI and various Department components have undisclosed records for which no claim to exemption has been made. This also was the subject of many appeals. They are part of the records ignored under my 1975 requests for records on or about me. My appeal to you identified records identified in those that were disclosed that remain withheld. And what was disclosed is but a fraction of all the records of all components. Your office even asked the office of the United States Attorneys to comply with that request and was content to have been ignored. The case was in Washington and the papers were full of it, although what was recently disclosed does not include so much as a single clipping. I think that I am entitled to some responsiveness from you on this, and promptly, unless there are in your office matters that by going back to before 1975 might be entitled to precedence. You should remember all the invocations of the Open America decision, and your assurances of living by it.

I don't think you need any information or assistance from me but if you do, to the degree I am capable I will provide it.

Sincerely,

Harold Weisberg
Harold Weisberg

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In the middle paragraph on page 2 I state I was given copies of FBI surveillance records that do include me. I was not given those copies by the FBI. They came from others to whom the FBI had disclosed them. They were processed long after 1975 and my name was disclosed without my permission. The Meerpol records I refer to in the next paragraph also were disclosed to others who gave me the copies. The FBI did not give them to me.

Aside from the fact that it is a Gargantuan lie in the last full paragraph on this page for you to say, as I there quote, not that the FBI was withholding derogatory information from disclosed main files in that time frame, it even offered me very derogatory information I did not want. As well as the fact that it was then disclosing such information about me, as an example of the FBI's practise being the exact opposite of what you represent, it offered me its tapes of the wiretaps and bugs it had on Marina Oswald. I was shocked by what it had already disclosed about her - who she slept with and when and where, how she explained it, the fact that she had and discussed with woman friends nocturnal sexual fantasies - even the content of her discussions with her lawyers. It disclosed to me the name of a woman with whom Jerry Ray slept. There is more like this in what it disclosed, both personal and political. It even circulated defamatory personal information about young black women to the employers of their closer relatives in an unhidden effort to get them fired. and it behaved in a similar and to me quite reprehensible manner with respect to a young white woman who was associating with blacks, where it undertook to damage the business of her parents.

You are just saying anything at all that can appear to explain the facts away and they are very big lies that you state.

In all the above instances the FBI withheld no names. Not of the women, or of their male friends, or of the black men who allegedly used drugs and misused medicines, or of the relatives or their employers or of the businesses.

You conclude by saying you cannot do anything about the FBI's disclosure of information about me where I was not the subject of the FBI's investigatory interest. Based on the very long record I have with the FBI in court and out this is absolutely false. You also duck what I asked you, whether or not such disclosure violates a criminal provision of the Privacy Act. Going back to the very first days of my 1975 King case the FBI's record of withholdings is as opposite of your representation as it could possibly be. Moreover, the Privacy Act did then, supposedly, control what the FBI could and could not disclose properly. It is not that you can't do anything - it is that you will not. Why I can only conjecture. And as I think back over the record of your office, under you, I cannot think of an instance in which you have not supported the FBI in its withholding of names where the information was not derogatory - even when the names had been disclosed officially. and this includes withholdings ~~was~~ in the records disclosed to me last June, where you have not acted on that appeal and thus support the FBI's withholdings.

I have had more experience with official mendacity than any one could possibly want, but as I think back over that I cannot recall anything that approximated the totality of the dishonesty in this letter of yours. This is the record you have made for yourself and by which, to the extent they will be of interest to others in the future, it is the record of you in your official capacity for history.

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U. S. Department of Justice

Washington, DC 20530

MAR 14 1990

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

Re: Appeals No. 89-1077 & 1123
RLH:TJM

Dear Mr. Weisberg:

I am responding to your letters dated January 30 and February 23, 1990 regarding a release of documents pertaining to you by the FBI in June 1989.

After further investigation I have determined both why the documents were released to you at that time, as well as why disclosure of the information was made to other requesters and placed in the FBI reading room. As noted in your letter of February 23, your initial request for records pertaining to yourself was made to the FBI in 1975. As you know, at that time FOIA processing was in its infancy at the Bureau, law enforcement records having been exempt from the FOIA in their entirety prior to 1975.

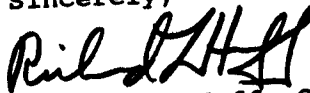
Consequently, at the time of your original request, as far as can be determined now, some fifteen years later, the FBI was only processing main files, i.e., those files in which the subject of the FOIA request was carried as a named subject of the file. As a result of your letter dated September 23, 1988, to Emil Moschella, the Bureau determined that, over the years, it may not have located and processed all cross references, i.e. instances in which your name is indexed to a file of which you are not a subject. I have been assured by the FBI that it has now processed all references to you.

The references to you which were released to other requesters and are presently available to the public in the FBI FOIA reading room, were located in the files of the Nathan Gregory Silvermaster investigation, as the Bureau has previously informed you. These files were processed as a result of litigation brought by the Meeropol brothers in 1975, which presently remains pending under the name of Meeropol v. Meese, Civil No. 75-1121 (D.D.C.). As a result of a directive issued by then Deputy Attorney General Harold R. Tyler, Jr., recognizing the unparalleled historic interest in the trials of Julius and Ethel Rosenberg and associated espionage cases, the FBI has only withheld information pertaining to living third parties in these

files when the information is itself of a derogatory character. While this processing is unique to these particular files, in no way were you singled out for special treatment. As the material released to you should reflect, this procedure was uniformly implemented as to all individuals mentioned in the files.

Under the circumstances, I am reopening Appeal No. 89-1123 as an appeal of the information which was withheld from your cross references by the FBI. I do not however, find sufficient cause for reopening your past appeals for information pertaining to yourself. Finally, as I advised you previously, this Office can be of no assistance to you with regard to your complaint about the FBI's litigation-related disclosure to third parties of certain information pertaining to you.

Sincerely,



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