

Finally, notwithstanding the inadequacy of Mr. McIntyre's August 30th letter, it underscores the bad-faith nature of Ms. Pustay's excuse for denying CJA's May 1st FOIA request, *to wit*, "FOIA does not require federal agencies to compile information or conduct research... This information may be available at a public library." Obviously, much as Mr. McIntyre identified that he had been "advised that there is no specific statutory authority for prosecutions of state officials", Ms. Pustay could have identified whether the "rules and regulations" sought by CJA's May 1st letter exist. Moreover, if she was not going to come forth with a copy of those "rules and regulations", as CJA's May 1st letter requested, she could, at least, have provided the pertinent citation reference to facilitate CJA's locating them "at a public library" - as may be seen from Mr. McIntyre's citation to illustrative statutes for federal prosecutions.

Yours for a quality judiciary
and government integrity,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures

7099 3400 0001 2733 3623

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September 8, 2000

Co-Director
Office of Information and Privacy
Flag Building, Suite 570
Department of Justice
Washington, D.C. 20530-0001

RE: Freedom of Information Act Appeals
(1) OIP/00-R0558
MAP:CLM:BB
(2) CRM-20000926F

Dear Co-Director:

CJA has received no response from you to our July 13, 2000 letter appealing from the partial denial of a Freedom of Information Act request. For your convenience, a copy of that July 13th letter of appeal is annexed, as are the relevant documents it appended: CJA's May 1, 2000 F.O.I.A letter and the May 26, 2000 letter of Melanie Ann Pustay, Deputy Director of the Office of Information and Privacy [OIP/00-R0558 MAP:CLM:BB], denying CJA's request for "a copy of the rules and regulations that the United States Attorney General was required to promulgate... pursuant to 28 USC §528".

According to the Freedom of Information Act Reference Guide, posted on the Justice Department's website:

"Under the FOIA, the Office of Information and Privacy is required to make a determination on your administrative appeal *within twenty business days.*" (emphasis added)

As reflected by the enclosed copy of the certified mail/return receipt, the Justice Department received CJA's July 13th letter of appeal on July 17th. This would mean that your determination was "required" by August 14th. We would, therefore, appreciate your clarifying whether a determination was ever sent to us – as we have received none.

Additionally, by this letter CJA appeals from the August 30, 2000 letter of Thomas McIntyre, Chief of Freedom of Information/Privacy Act Unit [CRM-20000926F], belatedly responding to the balance of CJA's May 1st F.O.I.A request, which Ms. Pustay had forwarded to the Criminal Division and the Executive Office for the United States Attorneys¹.

Mr. McIntyre's August 30th letter misstates CJA's request. It is not an "inquiry regarding the jurisdiction for the Department of Justice to investigate and prosecute state governmental corruption" – as if CJA was making a general inquiry into jurisdiction about which we had no knowledge. Rather, CJA's May 1st letter makes an affirmative statement as to the specific jurisdiction of the Public Integrity Section of the Justice Department's Criminal Division and of the U.S. Attorneys "to investigate and prosecute state governmental corruption which, because it involves high-ranking and powerful state officials and state agencies, is not investigated and prosecuted on the state level." It was as to this that CJA requested "records and/or information".

Mr. McIntyre's August 30th letter does not deny the correctness of CJA's affirmative assertion that the Justice Department has jurisdiction where "high-ranking and powerful state officials and state agencies" are able to thwart state investigation and prosecution by reason of their power and influence. Nor does his letter assert that there are no "records and/or information" relative to such jurisdiction. This then is the basis for the appeal.

Much as Mr. McIntyre relied on advice from an unidentified source for the information he provides in the second paragraph of his August 30th letter, he surely could have obtained properly responsive information – and records – from, *inter alia*, the Public Integrity Section itself.

¹ By form notice dated June 15, 2000, the Executive Office for the United States Attorneys advised that it had forwarded CJA's FOIA request "to Criminal Division for a direct response".
[copy enclosed]