

with FBI's 9/14/78

JL: FBI referrals in C.A.77-1996; FBI 9/12/78 letter on 9/24/78

Time required by the House hearings and a large number of reporters who made inquiries about these hearings precluded my making the kind of analysis a hasty glance at the covering letter and the FBI's statistic indicated would be required to make any sense of the two. Long ago I learned that when the avoidance of specificity is apparent in any FBI communication there may be a purpose in it and that for the FBI statistics is an answer to almost anything and a convenient cover or obfuscation. Thus I noted the absence of reference in the opening paragraph to the time of "your request for a trace of all referrals" to which we received no response until we were in the courtroom for the last calendar call and the extraordinary time lapses represented by the first entries on the FBI's chart. As one example of the latter I cite the fourth item in the chart, one of the earliest Serials in the Murkin file, 860. It was not referred to the CIA until most of the large file was processed or about six months after it was located by the FBI and it then required another 15 months for the FBI to write me - after my repeated complaints - that I would receive direct response from the CIA. This means, assuming that I have received the record, that it took almost two additional years.

So I asked my wife to make me a different kind of tabulation based on the FBI's table, to tabulate what the FBI avoided tabulating and what I was continually complaining to the FBI about, the time required by the referrals. The results are attached.

Briefly, they show that prior to 6/8/78 or long after the Department was again making reference in court to ending the case based on alleged compliance, I had received only 8.3 % of the referrals, that with a letter of that date I received 28.7 % and that in the next six weeks I received an additional 23.1%. While these figures are distorted by my wife's inclusions of the duplicates provided with the 9/12/78 (as provided then for the first time) the figures do represent proportions that reflect the considerable time required for any processing of the referrals and the long delays with most of them. (If she has time before I send this to you I'll ask her to make the correction and will attach it.)

I broke the time at before and after June 1977 because the processing of the Murkin record was about completed then. The processing is to have begun the previous September. Thus the FBI's own figures actually mean that as of the time of the completion of the processing I had received only about a third of the referrals. Of the 108 referrals I had received 39.

Throughout the period of processing I was asking about these referrals. The FBI persisted in refusing to even ask those to whom it referred records when they would be processed. While I believed and continue to believe that this was part of a general policy of stonewalling, the FBI's statistics disclose an additional reason for FBI delay in making the referrals. The first itemized records originating outside the Department show this. All three are in the earliest Sections processed, 4, 6 and 7. The time of processing them is approximately September 1976. Despite the worksheet notation that they had been referred to the CIA then in fact they were not referred until the following March 17. The first CIA response was not until the next year. I received these records June 8, 1978. And this date coincides with the CIA's need to make some response because we then had it in court for its own King records in C.A.77-1997 in which it also was stonewalling and continues to stonewall.

It is not by accident that the FBI avoids mention of the time I asked for information on the processing of the referrals in its 9/12/78 letter or can't state when it provided about a third of the referrals that are provided. It has a policy of building confusion and indefiniteness into all correspondence.

I illustrate this with the most recent letter I have received from the FBI, its 9/18/78.

Aside from stating that a print is enclosed this letter reads, in full, "Reference is made to Freedom of Information Act's ~~request~~ (FOIA/PA) request for 8x10 color copy of the photograph of the Texas School Book Depository as taken by Mr. James Powell."

Why the time of the request is not stated is apparent to only those who have intimate knowledge of the request. It would not be apparent to anyone else reading this letter that my actual request, accompanied by a check, was about 1/1/68 or more than ten years ago.

It would not be apparent that the request also included the relevant reports, still not provided.

It also would not be apparent that the FBI led Figley to assure Judge Caselli in C.A. 77-2155 that it would comply promptly with all two dozen long-overdue JRM requests nine months prior to the 9/18/78 letter and had not done so with regard to any of the requests. (I provided the Department with a list when I testified to these long-overdue requests in 9/76 in C.A. 75-1996.)

Of course it also would not be apparent to anyone in the Department reviewing the FBI's file of correspondence that it had provided copies of this one picture to those who made recent requests without complying with my much earlier request for it. I received this print after I sent Wain Shea a copy of the most recent correspondence I had received from a recent requester who had already received the picture.

In all of this and in its compilations of statistics the FBI accomplishes much more than the apparent objective of stonewalling and with regard to me wasting my time and precluding work it does not like. It wastes enormous amount of time and money of which it keeps careful if not inflated track so it can complain about the cost of FOIA to it. The FBI and the Department have already wept this on the Congress and will continue to do so in further effort not to have to comply with the Act that requires it to disclose records of its own flaws and transgressions.



67 FBI Referrals to:

| Agency | Number Referred | % of Total | Before 6/8/77 | After 6/77 | Before 6/8/78 | %    | On 6/8/78 | Released % | After 6/8/78 | %    | Total Released % | Denials % |
|--------|-----------------|------------|---------------|------------|---------------|------|-----------|------------|--------------|------|------------------|-----------|
| DJ     | 22              | 32.8       | 15            | 7          | 1             | 4.5  | 21        | 95.5       | -            |      | 22 100%          |           |
| CIA    | 8               | 11.9       | 7             | 1          |               |      | 8         | 100%       |              |      | 8 100%           |           |
| State  | 24              | 35.8       |               | 24         | 1             |      |           | 4.2        | 23           | 95.8 | 24 100%          |           |
| NSA    | 2               | 3.0        |               | 2          |               |      | 2         | 100%       |              |      | 2 100%           |           |
| ATF    | 1               | 1.5        |               | 1          |               |      | 1         | 100%       |              |      | 1 100%           |           |
| Army   | 3               | 4.5        | 2             | 1          | 3             | 100% |           |            |              |      | 3 100%           |           |
| B.Pr.  | 2               | 3.0        |               | 2          | 2             | 100% |           |            |              |      | 2 100%           |           |
| IRS    | 4               | 6.0        |               | 4          | 2             | 50%  |           |            |              |      | 2 50%            | 2 50%     |
| AF     | 1               | 1.5        |               | 1          |               |      |           |            | 1            | 100% | 1 100%           |           |
|        | 67              | 100%       | 24            | 43         | 9             | 13.4 | 32        | 47.8       | 24           | 35.8 | 65 97%           | 2 3%      |

Elapsed Time by Agency:

|       |       |           |
|-------|-------|-----------|
| DJ    | 1 mo. | 1         |
|       | 10 "  | 8         |
|       | 15 "  | 13        |
|       |       | <u>22</u> |
| *CIA  | 9 mo. | 1         |
|       | 15 "  | 7         |
|       |       | <u>8</u>  |
| State | 1 mo. | 1         |
|       | 11 "  | 23        |
|       |       | <u>24</u> |

|        |        |          |
|--------|--------|----------|
| NSA    | 10 mo. | 2        |
| Army   | 1 mo.  | 2        |
|        | 2 "    | 1        |
|        |        | <u>3</u> |
| ATF    | 13 mo. | 1        |
| B.Pr.  | 9 mo.  | 2        |
| IRS    | 2 mo.  | 1        |
|        | 8 mo.  | 1        |
| Denial | 7 "    | 2        |
| AF     | 10 mo. | 1        |

Combined:

|       |           |              |
|-------|-----------|--------------|
| 1 mo. | 4         | 6.0          |
| 2 "   | 2         | 3.0          |
| 7 "   | 2         | 3.0          |
| 8 "   | 1         | 1.5          |
| 9 "   | 3         | 4.5          |
| 10 "  | 11        | 16.4         |
| 11 "  | 23        | 34.3         |
| 13 "  | 1         | 1.5          |
| 15 "  | 20        | 29.8         |
|       | <u>67</u> | <u>100.0</u> |

\* An additional 10 referred for direct response