Dear George, Lardner 6/21/00

Here are the two motions by DJ to which I referred yesterday. In haste, because I've picked up an indication of how these people intend doing that number on me in court and it requires much preparation, a few explanations.

79-1700 was not a suit for records pertaining to the processing of the FBIHQ releases you will remember. It was for all records pertaining to their release and the difference is vast. They rewrote the request to limit it to the worksheets and when I proved in district court, Smith, that it not only was not for the worksheets and that they violated their regulations in making this misinterpretation, he blandly ignored it.

They filed no affidavits "addressing the complete nature of their response" because they did not address most of the request at all, and I proved that also. They regularly rewrite my requests and I regularly correct them, to no avail. The amount of money wanted in this way to now is quite large.

There is no "legal basis for each exemption invoked" except in terms of revision of the language of the act and enacted and stated Department policy. I'll provide specifics and Jim can provide specific citations to the act and its legislative history.

There is not and never has been any protection of the informant program. This is a regular scare tactic used against me since 1970, sometimes even more unreal than this. File and informant numbers are arbitrary, not coded, so there is no code to be ~~war~~ broken. The real hazard is that by the repetition of the numbers you can spot phonies, as I have and I have exposed them in court, without dispute. The fact is that the FBI also regularly discloses both symbols and file numbers, also not disputed. Can't be. I've put too many in court records. They also disclose names, which is the ultimate in identification. (How else do you think they foisted off so many on Blakey et al?)

"Third parties" are not usually withheld, only since FOIA. Look at your Warren Commission volumes, before FOIA. All those disclosures were approved by the FBI and by Hoover personally, as a matter of policy. They now disclose and withhold inconsistently. They never withhold when they want to engage in propaganda or when they want to hurt people they can't like.

Jim

When they refer to special agents names they refer only to those who prepared the worksheets, meaning did the FBI processing. They never made any issue of this until I used the information to get one of them fired from that work, he was so outrageous. Ted Noble, who has been a Soviet specialist in the Oswald period I think under Sullivan. They really don't care much about those agents. They are trying to use this to get an exemption for all such names. The reason is to hide the names of those who did the dirty work, who did the real faking. Take the case of the guy who submit examined the Bronson film and reported that it doesn't even show the TSBD building when it does for many frames and the Oswald window in particular. One of the things they are supposedly now investigating.

When Kelley was director and this question came up he held that such names would not be withheld in historical cases. I put his letter in the record in C.A. 75-1996. No dispute. The judge ordered that such names not be withheld, much broader- no names of public employees performing public duties to be withheld. If they did not agree, she told them to brief the issue. They did not brief the issue and they then processed almost 90 volumes of records, about 20,000 pages, withholding those names throughout. I made an issue of it beginning in 1976. They had those particular volumes processed by mid-1977 and were able to stall doing anything about my complaints until they could no longer in seeking summary judgement. Then, just before they filed this and the related Motion, they filed an affidavit in C.A. 75-1996 (King) stating unequivocally that the FBI's policy changed as soon as they completed the processing of those 20,000 pages, or by mid 1977, and since then had not withheld FBI names!

No. 79-1700 is C.A. 78-0249, [redacted] they did withhold those names after their admission of the policy change that required their disclosure. Moreover, the same affidavit states that the claim is officially abandoned. You'd never tell it from the Motion I provide, when too late under the Rules they saw a chance to revise FOIA outside of Congress!

All references to "confidential sources" are to all sources. One of the reasons they withhold the names of those who processed the FBI/SS JFK releases is because those characters were counterpoing - they withhold what both the FBI and the Warren Commission,

with FBI approval, had already disclosed. This includes classifying up to Secret at least what they had already disclosed. I've filed dozens/of copies of both versions attached to appeals, as Shea can confirm and I can provide.

Later you'll see that they include all sources as "confidential sources so I add nothing here to that next underscoring.

The use of 7E is limited to secret techniques, those not known. The Act is clear on this, so clear that I can provide copies of/their own voluntary admissions of it in court records. Do they invoke it for the non-secret, like bugging and tapping? They did both, illegally, in the JFK case, although they got the AG's OK to tap Marina for a while. They didn't even bother to ask permission to bug/ but they did it and disclosed the results. You can have them if you are interested in Marina's nocturnal sexual fancies. (So much for their concern for privacy.) They want to extend 7E because if they don't and a judge wants them to comply they'll have to disclose an enormous amount of such illegal bugging and tapping and mail interception and/it was pretty commonplace. Where it is pulled from the files it is replaced with sheets saying that the records are in the "Special File Room" for safekeeping, or that they are in JURK or JURK MAIL files in the special file room. (Mail to the FBI is anything written, not letters.)

They are so anxious to do this that they do not include 7E in the catalogue where they say they want it clear, but because it is included it will be within the revision they now hope to pull off.

The last graf on p.2 makes clear that they want this as a revision/of the act, by the precedent top of 3, re 7C. Where they refer to b2, the language of the Act is clear: to use it the information must pertain "solely" to internal rules and practices. The matters did not meet this test, thus they have been disclosing them. Where they tried to use it in C.A. 75-1996, their own expert witness, Shea, testified that it is inappropriate.

The last graf reiterates that they will use it to nullify the act.

All of Smith's decision was procured with what for you and me would be fraud.

Moreover, these are not the real issues of the litigation. They can pick and choose and when they get a Smith for a judge they can get way with entirely misrepresenting what is being litigated -they did with Smith- and then when they get a Hechinger and Robb on the appeals panel they can still keep off all the issues and go into the extraneous. Hechinger got it going that way at the outset of oral argument. The briefing was almost entirely ignored and is in this motion.

In the CIA case, No. 79-1729, as is not uncommon with the CIA, after the record was closed in district court and after all the briefs were in at appeals they admitted, again in C.A. 79-1956, by an affidavit they provided to help the FBI, that they had not provided all the records called for in the litigation. (They still haven't.) Yet they prevailed before that panel, even with admission of non-compliance under oath! The problem there is that the appeals court need not accept new evidence. What they usually do when there is new evidence is remand. This panel didn't.

I forgot: the classified stuff in the first Motion was all disclosed and I provided photocopies of it, believe it or not! All they withhold on the worksheets is "RCMP," for the caution. In the underlying records they provided slip sheets showing referral. But what was classified was also disclosed so there was nothing to classify, nothing that qualified. That incredible. And undisputed. But you should see the catalogue of conjectured horrors in the FBI's affidavits, all in generalized, conclusory terms.

This CIA case is the one in which I got the records you and Jeff Prugh used in your stories- the case in which those identical records mysteriously disappeared from the court's files. I've asked Jim to see if the slip stating that the disappearance cannot be explained is still there and to get a copy if it is. Recently even the government attorney on the case asked Jim if he knew anything about it because she could not find them at the court. What this disappearance means is that except for my copies none are available. The disappearance was prior to Jeff's story.

What this motion and the court ignore is that the FBI and the Department do disclose classified CIA information X and I provided copies. This Motion, if successful, will legitimatize their Catch-22 and will enable endless stonewalling in which the requester,

if he wants the information, will have to use other agencies, in historical cases God knows how many. That great cost and undue slowness will be another revision of the Act and embarrassing of all parties.

This time of the day this time of the year the early-morning sun, from the time it crosses the horizon, is directly in my eyes and there is no amount of artificial light that overcomes it. I so like the view as I look out that I never think to pull the drape. So my usually bad typing is worse. So I'll hold this until I can get someone to read and correct it and to locate and provide a copy of Smith's saying in open court that he usually takes his lead from the FBI, approx.

How Smith managed to get so many cases that could be used to rewrite the Act, cases not of the ACLU types, those who have time and facilities - and mine are not the only ones like that met this new - only Pratt, who makes the assignments, can explain. I also have two other cases before Smith. That is to say all the cases I've filed since 1975 managed to wind up before him, even when another judge, sua sponte, recused himself the day of status call.

The carbon of the letter to Jim is only because I did get word that there was to be a number on me, a caution not because I believe that strange as the thing is it has to be an effort to harm me. With the medication I'm on a simple accident can be fatal. The medication is to keep my blood from clotting. I have to discontinue it for three days if the dentist is going to pull a tooth.

I've taken this time not because FOIA today is that important to me for if I live to be 100 I can't use all I now have, much as it can be improved. It is because I think thaqt FOIA is that important to the country. And if it is ever to happen, to reform of the agencies so much in need of straightening out. ...Wjy don't you come up some time and see what I have and the preparations I've made for its use by others?

Hastily,