

Dear Jim and Mark, re fee waiver, 81-2543

12/22/83

I'll send the original to Mark now and hold a carbon for Jim's return.

While everything is done well, I think a basic flaw is being ~~too~~ defensive and not ridiculing the CIA's false pretenses, samples of which will follow. And silly arguments, like so much is public domain. If 60% is public, does that justify withholding 40%?

I think also you should have included illustrations of how the agencies function (duplicate disclosure in the FBI's HSCA records) with regard to non-disclosure. Like trying to hold HSCA to less than that it was forced to disclose to me in two suits, 1986 and O320-4322 combined. And holding out on the Commission, with illustrations in the reprint of Photographic Whitewash from the CIA's disclosed records. (I think using the published source is better when you are talking about distribution and uses that reach other people.) Not only withholding info on the CIA's use of the mafia to assassinate Castro but actually spelling out how it ~~wild~~ not tell the Commission all it knows and ~~XXXX~~ CIA's Zapruder analysis that does not conform to the WC's or FBI's.

While it may be inherent I think that given the opportunity you should spell out that no commercial benefit is intended or possible.

And that the CIA has a vested interest in non-disclosure, a few examples above and others not hard to find. Like disappearance of most of its Oswald 201 profile file.

I like Mark's declaration but have a few suggestions in the event he has to prepare another. On 3, referring to providing copies to others, ancillary uses of Henry's book and his appearances in promoting it will reach a vast audience, much larger than the book. For example, condensation in RD will reach multimillions.

I have made copies available to others, including the courts, researchers and press, both.

Here you refer to my study of the functioning of institutions. Mark also does this and although the Congress is outside FOIA, people have a right to study how it functioned and this requires access to records HSCA did not publish.

(What is Tony Summers' new book?)

Exhibit 4 can be ridiculed, the claim to first-in, first-out when Mark's 1979 requests remain ignored, as do many of mine, some older and all appealed. And if my memory is accurate, Savage was in on them and he signed this.

Exhibit 8 also, as with the percentages above and the presumption that all records duplicate each other and are only consistent with what is disclosed. The quantity, of course, is irrelevant, and besides, the CIA itself is withholding most of its own JFK assassination records after repeatedly promising them for going on a decade. Moreover, the CIA does not know and certainly does not say that HSCA considered all evidence on all facets. Example, the CIA's analysis of Zapruder, if they did not go into it.

You are not pointed and vigorous enough later in addressing the claim that HSCA decided there was not sufficient usefulness or benefit to the public in further disclosures. (Aside from this not being any exemption of the Act and their arrogating to themselves the right to censor and decide, contrary to the clear intent of the Act, what can be known.) The FBI decided that Ronson's films were valueless because a) they cannot be used to identify Oswald and b) do not show the TSED, which is ~~also~~ actually in about 100 frames. Even the division within CIA on Nosenko. These kinds of illustration and the ridicule I suggest can be important before some courts and within CIA. Moreover, what they are ~~it~~ really "determined" here is not the fee waiver but that the disclosure of undisclosed records "would not be in the public interest," etc.

When they allege something similar in Exhibit 11 I made a note referring to the need for access to all records to study the functioning of all the institutions of government, not just the alleged facts of the assassination.

In Memo Points, Authorities, p.27, bottom, my note reads "Withheld from W.C." I think it would be effective to use the DeLoach memo I gave you which brings this to light and shows how the FBI convinced LBJ that there was a conspiracy and that the CIA was involved in it. And the FBI, too, did not tell the WC. Point out how long the FBI sat on it and change the footnote formulation to reflect the fact that the FBI used this when it was under Harrison's criticism and thus directed attention from itself to the CIA.

In any need to use the Rule 1-9(h) statement, I'd include other statements, like the fact that not infrequently the underlying records do not conform to the interpretations of them by the agencies or HSCA. That Allen (and others) have old requests and appeals that are ignored for many years. That HSCA also was not able to look into all the things it wanted to look into.

Then the 1448 CIA attestations, that it cannot withhold what it disclosed to HSVA and therefore continues to withhold it.

If I failed to say it above, all they claim is self-serving and lacks any basis in fact.

Best,