Allen v DoD CA 81-2543

Dear Jim, 10/30/84

The timing on the Secret Service inventory of FBI records is nice. Just in time for Green. So I think they should have time to respond, meaning before we are again before her.

The Peterzell decision is, I think, good and fair, and that the CIA's position was so extreme I think they were just hoping for th kind of decision they'd like, regardless of the odss.

I've also read and made a few marks on Dube's declaration in Mark's case. Here, as contrasted with Paul Hoch's, he says they have to check prior disclosures. So, at the least they are aware of the possibility if prior disclosures. But having that knowledge, Dube did not check and did not ever, even belatedly, claim to have checked to lear whether there had been prior disclosure.

This leads to something I suspect may be missing from his declaration and his estimates. Each record has a unique identifier, a number. Do they record, particularly on their computers, or in lists of any kind, the numbers of disclosed records? I do not know, but I do know that if I were running an intelligence agency that is one thing I would want to know, meaning learn rapidly. He has attested to the IPD means of determining whether records have been disclosed, and that ought be a simple task, from his deposition, but he now makes no mention of any means of making the determination. I think he should be asked to eliminate the generalities and conclusory, which is what most of his declaration is.

I think also, you and Mark willing, his declaration requires a frontal assault, going into the CIA's long record of stonewalling requests, absent which most of this would be in the past. They've stonewalled to the point where any costs by that means alone are greatly magnified. At least some of these records are relevant to requests going back almost a decade and still not complied with. Indeed, had those requests been complied with, it is possible that there would be much less interest in so broad a request. They, by their persisting stonewalling and suppression, leave little alternative to inclusive requests.

Moreover, on the question of cost, and everything any government doesx involves costs, the attorney general himself has determined the JFK assassination to be a major historical case, one of deep and abiding interest, and I note also one requiring maximum possible disclosure.

His entire approach turns FOIA around. He treats it as a withholding statute when it is a disclosing statute.

I'm not in a position to argue about his estimates of pages, but again, the people have a right to know, and as the information officies of all agencies mean great costs, so do all other means of informing the people.

I would, however, dispute his time estimates. I've read that many pages and probably more, made copies and filed them myself, made notes, taken time to make copies available to others, written memos about them and lengthy and documented appeals, and it did not require the time he estimates. And I also went over some with considerable care, taking more than the usual amount of time.

One of the points of frontal assault, about which I may have more to say later, is his claim to "methods." I'd not argue "sources," but I think that there is no real question of "methods," and that affidavits from former CIA people so attesting ought be available. It is not necessary to treat reading the newspapers as an intelligence method requiring protection, or writing reports. There are remarkably few secret methods, which do require protection, and there is not likely to be a single method involved in any JFK inquiry that is not well and thoroughly known to the KGB and DRI. The only withholding under "methods" is from the American people.

I would also dispute both his formulation and his argument (graf 10) where he makes a choice between "untrained personnel and unique expertise. Certainly they have many people who are competent to read the records other than only "mechanically." And there must be many DO people who are acutely aware of "any sensitivities which still exist in the DO documents." If there are any other than mythological, they are

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by their content readily apparent to many if not most intelligence people above the rank of file clerk. It is not necessary to compare every record with what has been disclosed, only those that processors believe ought be withheld. Yet he actually attests that all must be at this point, that "the processing and review can only be accomplished by pwersons thoroughly familiar with both the HSCA investigation itself and the DO interests at issue." (He apparently forgot about the Warren Commission disclosures agreed to by the CIA and its own earlier disclosures to requesters.)

So he is wrong in insisting that only this one expert can process because he says that "Any other procedure would pose serious risks of inconsistent withholding decisions, or, more critically, the iandvertent release of information still properly classified or revealing of intelligence sources and methods." Only the first part, inconsistent withholding, is true. Whether or not classification is proper, whether or not secret sources and methods are involved, requires no subject-matter expertise.

He goes out of his way to avpid identification of the expert called back from retirement, referring to his (xxx graf 11) as "this individual." I'd be surprised if this were not someone publicly known, like John Lemon Hart, if I recall the name correctly. Maybe another, but the question is, has his connection been disclosed, and if so, why all the secrecy here?

He here repeats that they cannot use anyone who is not both familiar with DO operations and HSCA, but that is not true until after the records are reviewed, and then only those to be withheld must be examined to determine whether there had been prior disclosure.

He manages also to be unnecessarily unclear, as in graf 14, where he makes what appears to be quite imple into something quite complicated:"...time expended thus far in pulling documents from a particular box, identifying them as CIA originated, duplicating them and attaching a worksheet."(Emphasis added.) This is all the simplest clerical chore, if they are going over all the boxes, front to back. Anybody can take the records from a box and return them, have them xeroxed, and place a worksheet with them. This is hardly the "highly complex undertaking" he refers to in graf 11.

Somebody is assuredly engaged in a boondoggle or working only part-time if in an entire month he "reviewed" only about 500 documents, or 1200 pages. Or they have created a machine for the most scinetific ineffeciency. (Graf 14) The initial review is independent of any JFK assassination knowledge or expertise.

In 15 he reemphasizes the "extraordinarily complex and time-consuming" process. The only apparent difference in this instance, from the usual processing, is the last step, dtermining whether there had been prior disclosure. That is the only point at which special expertise is necessary, and that presumes the absence of records of prior disclosure, which I believe ought exist. Here he refers to both HSCA and WC, but in building up his exaggeration he fails to mention that both are indexed. He says instead that the expert "must necessarily consult the voluminous reports" of both, as well as disclosed documents in other requests.

I do this in haste before bedtime because I want to get it in the mail and because a cousin I've not seen in years is coming tomorrow.

I think this affidavit nails him in Paul's case, where he swore to the need to withhold what had been disclosed although he knew the normal procedure was to check to determine whether there had been prior disclosure. And knowing this prepared and filed his explanation, which makes no mention of this and is further deceptive.

Best,

As I told you when we spoke, I think you should learn how long xeroxing takes and whatothe basic cost is on high-volume machines. His figures are dubious.