

Dear Jim,

8/2/84

What I did for Thoecharis yesterday and today was too much and today, after getting woozy, I was just sitting and thinking, not even reading. Today, although it was only two trips to the basement, I spent some time searching files and the combination, I guess, is what made it too much. Anyway, as I thought, it became apparent that there simply is no way in which, no matter what I did about trying to comply with their discovery demands in the field offices case, I could have found the record proving that they have the tapes indexed.

I have a file on the police broadcasts and this record is not in it. The reason is simple: there was no reason to establish such a file until the FBI did not come up with the tapes. I had no reason to believe that they would not and no reason to establish a subject file on them or the transcript they made, which was published by the Warren Commission.

What is in this subject file is limited to the records disclosed to me and that is limited to what the FBI did after HSCA made an issue of the five minutes of broadcasting that was obliterated (to the human ear) and the FBI had to at least pretend to look into what HSCA looked into. These are the records I attached to my affidavits in any event, if not also to appeals. So I provided all that I could have retrieved prior to any discovery demands. Those records are explicit in stating that the FBI made the tapes and thus, had anything at all been needed for search, were all that could possibly have been needed.

I go into this now not only because it reflects the frustration the FBI was building in and not only because as what I sent you proves, they needed no discovery from me, but because it again illustrates that even without needing any help from me to find what would have been found automatically if they had made a search but because I had already provided and they had all they needed from me.

I do not think this is something Lynch will want for oral argument so I'm not sending him a copy, but I do think it can be very significant on remand.

I ~~also~~ recall quite clearly that to prepare an affidavit or more than one I did go over the Dallas index and did include a definitive statement on what it does and does not include, with citation of the entries, and stated that it is obvious that a) the FBI has the tapes and b) knows it has them c) filed other than in the main assassination files.

The legend added to the record I sent you is exactly the way the FBI marks copies up for routing to the tickler. I've attached similar copies to affidavits attesting to this and the FBI did not deny it. They have an enormous tickler in Dallas and it will be extraordinarily important to get.

This business of the police tapes can be used, if we get any kind of decent judge on remand, as proof positive of bad faith. More if as I think they were told to produce all tapes by Shea. It undersecres the bad faith in all they alleged about discovery and the claimed need of it because I was absolutely correct in all I said in addition. And because this was included within the appeals it establishes that the appeals were not acted upon. Or, all in all, potentially quite important.

Doing something significant about the ticklers may be less easy, but I think that if we can get a judge to require a first-person affidavit I can specify how the search can and should be made. It hasn't been you know, and the avoidance and evasions and circumlocutions are quite obvious. Boy what a tickler that has to be!

Best,