Mr. E. Ross Buckley
Criminal Division
Department of Justice
Washington, D.C. 20530

6/27/80

Dear Mr. Buckley,

With your letter of 6/30 there were the records through Section 20E, as you say, and I now have read them.

I repeat what I have written before in appealing, and as before I send a copy to Mr. Shea as part of the overall appeal.

I regret that you have not heeded my caution, because you have again withheld the public domain and what the Department and the FBI have disclosed.

Again I state that your paraphrase of exemption 5 is not in accord with its intent and controlling court decisions.

You have used both referral and what is not identical with it, consultation, to withhold. By now there should have been enough time for some of those referrals to have been acted on and consultation would seem to require less time.

Once again the records provided refer to other records that are not provided and are not accounted for on your list.

I do thank you for making the numbers more legible and suitable for xeroxing.

Several records from Section 18B illustrate what I say above and said in earlier appeals. Here I refer to those of which I have made copies for Mr. Shea.

718 is an ISD Mail and Docket Unit routing slip. (Criminal now includes ISD and you therefore should be providing its records but have not mentioned them.). It refers to a record not attached: "I glanced through this but it is much too blah. If you find anything pls let me know." It appears to be signed either Jay or with initials beginning with J and ending with Y. From the content of the Section this pertains to Jim Garrison, his investigation, as it was called, possibly to one Gordon Novel, of whom I will say more below.

(For Mr. Shea's information, this and much other information that should have been provided by the FBI, particularly from the New Orleans and Dallas Field Offices, was not provided by it.)

This and other records indicate that a Mr. Oliver was heavily involved in keeping tabs on Garrison, ostensibly with FBI information. The note at the top of the 723 routing slip addresses it to him. It refers to the setting out of leads, I suppose to the FBI, which has not provided them despite a specific appeal on that denial.

There is reference to one Sergio Arcacha Smith, who figured prominently in the Garrison probe. It is stated that Arcacha "had some CIA contacts," no such records have been provided, by the FBI or any other component. Nor has anything like that Arcacha was "involved in any capacity in 'following' a 'CIA secretary' in 1965."

Other content refers to other undisclosed information, as in reference to Oswald's literature distribution for which he arranged TV coverage. There is reference to a third man with him them, not identified. (There is no reason to believe he was Manuel Garcia Gonzalez, as this states.)

No record referring to what the unknown woman said on viewing the TV film has been provided by the Department, including the FBI.

In the same series of routing slips 724 also refers to what is not provided: "Lee— Does this mean anything to you? Who was arrested March 31st?"

This also is true of 732. In it you have withheld what is public, the names of those who figured in a Mexico incident, and probably of another said to be "connected with the bull fighting business."

Two woman, whose names I have forgotten but can provide, met a man who used the name of J. Carl McNab. He also used the name of Jim Rose, as well as other names and he also is public in the Garrison matter. He claimed to represent another man, Richard Case Nagell, a story-book character. Nagell was ~~charged~~ charged with robbing a Texas, not a Los Angeles bank, and claimed he was establishing a cover so he would not be blamed in the coming assassination of the President. The Los Angeles bank robber may be one named Buick, who fits the description provided in 732. (He was then at the McNeil Island pen.)

One "third party" to whom these young woman/school teachers spoke is known to me. No record pertaining to any third party has been provided.

The Y could refer to the Division chief, Yeagley. F Walter

755 refers to an "attached carton" and its content, "a cartridge of magnetic tape." Neither it nor what is asked of the FBI, "Please advise us of the contents," is provided. Nor is any response by the FBI.

According to the list, 764 consists of 4 pages. One only is provided. It refers to what also is not provided, what the USA, New Orleans, told Kossack; and to a meeting with the CIA that afternoon at 2 p.m.

771 refers to Richard Davis (Rudolph Richard Davis), pertaining to whom no records are provided. Nor is the basis for any part of the note added to the form, addressed to Yeagley. It also says, "Re: Novel," but no such information is attached or provided.

This also is true of 774, where nothing in the handwritten note is included in the typed part of any record provided. This applies to one Layton Marten, who is Layton Patrick Martens. The 5 letters submitted to the CIA are not provided.

777 refers to a briefing of the AG prior to his statement pertaining to Clay Shaw as Clay Bertrand. No record of this briefing has been provided,

The content of 779 refers to what is not provided.

In 786 7C claim is made to withhold the name of one of two persons pertaining to whom information was sought from Internal Revenue. How can the claim be applied to one and not the other?

789 refers to FBI records not provided in my C.A. 78-0322 or here. No record I recall indicates the three areas of "a 'full' investigation" or how the FBI would be "'protecting'" itself or the Department of a proposed grand jury in which the FBI's role would be secondary.

809 refers to records not provided and to possible improper interception of communication

810 makes a privacy claim to withhold the name of a New Orleans policeman (Comstock?) as well as a 7D claim when all of this has been disclosed by the FBI. This also discloses what the FBI withheld (in C.A. 78-0322), the content of the records Garrison got from David Ferrie's home. The importance of any Carlos Marcello information is underscored by the report of the House Select Committee on Assassinations. You do make 7D claim for the public domain, despite my earlier cautions and offers of help to avoid it. (This is not the only such case, nor are those here listed the only cases of reflection of records not provided by the Department, including the FBI.)

811-14 show that in addition to ISD, Civil and Civil Rights have and have not provided pertinent records. (Other records also reflect this.)

If there was intimidation of witnesses in the Garrison matter or if Barefoot Sanders (who was USA at Dallas when JFK was assassinated) or Civil had information about it it is significant information. (811) These requests are by CRD.

I do not recall receiving from the FBI and nothing is provided here that is referred to in 814, that the FBI withheld Ferrie/Marcello information from the Warren Commission. The alleged FBI explanation of it, not questioned by Belcher, is not credible. What the FBI really did was control what the Warren Commission could know and look into. The attachments are not provided.

In 827 Yeagley asks, "Could any of the names on attachment be CIA?" No list or attachment is provided. Obviously, these are names that came up in the Garrison adventure and are public domain. 828 is withheld as referred to the FBI. 829 refers to a letter to the CIA with the AG then, also not provided. Further reference to this is in 830, in which a withholding is attributed to exemption 5. I doubt its applicability with no prosecution in view.

838 and 858 refer to information not provided. If as I suspect the withheld name of one identified by Dean Andrews as Clay Bertrand is Gene Davis, then you have made 7C and D claims to withhold the public domain - very public, as broadcast by NBC-TV and as it figured in Davis' lawsuit. You also withhold what the FBI disclosed. (Also, I do not recall receiving some of this information from the FBI's N.O. compliance.) See also 864 .

873 and 874 refer to records taken from the Department by David Slawson, who was earlier on the staff of the Warren Commission. 875 and 876, both pertaining to this, are withheld by referral. The description in 874 is not accurate. It reads, "Personal Papers and Documents of W/ David Slawson." Rather is it personal papers and official records taken by Slawson, apparently when he left OLC. From what is provided it is apparent that the copies of official records were not sent to Slawson after the post office gave the Department the package damaged in the mails. No record indicates that anything was done

about the taking of official records. One question that also is obvious is how is it right for Department employees to take public property that is denied to me and to others? Slawson appears to have taken even file copies.

877 represents disclosure, not referral of the record of another agency. How then justify the withholding of other such records by referral and how is referral required? The subject is official propaganda and involving a supposedly impartial British legal authority in it. This became [redacted] propaganda within the United States, of which I can provide copies.

881, like 786, is a request for supposedly confidential tax information, here both names withheld, plus other intelligence, pertaining not to criminal activities but to the Garrison investigation.

In 891, where you make 7C and D claims, you make the 7D claim for the name of someone who got in touch with the ACLU. This is not a proper 7D claim, the ACLU not being an agency of government. If the subject is Gordon Novel, then the 7C claim is spurious. The description of the information coincides with [redacted] what is attributed to Novel in other and disclosed records.

In 903 and 904, OLC reflects an attitude toward FOIA, of non-disclosure of the non-exempt. This is not in accord with the Department's public representations, or with the guidlines, to which there is reference, or with [redacted] the basis for the guidelines, including the statements by the Commission chairman and the White House. OLC doesn't approve of what former DoD general counsel McNaughton wrote any more than the DoD's then acting general counsel, so it is withheld from research at the Archives. (Now disclosed.)

Although the list does not so indicate, a series of records pertaining to me begins with 918. I address them separately, below.

922 and 923 refer to the testimony of former FBI SA Regis Kennedy at the [redacted] Dean Andrews trial. The first is annotated by FV (Vinson), "Please try to get transcript." No transcripts have been provided. They are important records.

No Clay Shaw file has been provided, and all indication are that there is at least one.

935 refers to a supposedly attached letter from one Valentine Ashworth. It is not

attached.

936 is withheld as in consultation with the FBI.

937 refers to the CIA's reply, apparently to Ashworth's forwarded letter to the AG. Kossack was "puzzled" by the CIA's reply, which is not attached or provided. Copies of whatever pertaining to Ashworth was sent to the FBI are not provided here or by the FBI, where that information is pertinent in C.A. 78-0322.

939 is largely illegible. The list says, "Seen Ashworth is too hot to handle." This may be an interpretation of for Garrison, too hot to handle. A legible copy would be appreciated.

940 is a CIA letter. It says almost nothing but I note was not referred to CIA.

It appears unlikely that the Ashworth matter was abandoned here. This would indicate other records. Perhaps more so because of Criminal's suspicions about the CIA.

951 forwards a memorandum on a DJ conference with Clay Shaw's lawyers to the CIA. [redacted] The CIA's comments are asked for. If provided by the CIA, they are not provided to me and they do not appear on the list. While it is possible that the withheld content of 952 referring to Judge Hagerty meets 7C standards, that he [redacted] was a heavy drinker and other alleged personal characteristics are public. He was involved in, and I believe left the bench over, a scandal involving whores at a party and drinking and lewd movies.

953 is a memo to the AG on the conference with Shaw's lawyers. They asked for information pertaining to whether 11 named individuals had any contact with the CIA prior to the assassination. Eight names are not withheld, three are, with claim to 7C only. It appears certain that all such names are public, are of persons of significant involvement in the Shaw case, and are what Mr. Shea refers to as "players," or persons of more than casual interest. The 7C claim appears to be made [redacted] selectively and inconsistently. Withholdings on page 2 also appear to be in the public domain, including by page-1 attention. If I remember the name of the man of the post office box, it is Lee Odum. [redacted] That matter involved a Garrison claim to breaking a code and it was all over the front pages.

954 is a routing slip referring to what is not provided, "Thought you'd want to see this because of content and investigative 'loose ends' - "

In the foregoing I have not used all the many examples of references to records not provided. I have referred to those that, like 954 above, appear to have particular pertinence, in these sections on the Garrison period and activity. These are of considerable historical significance, especially as they hold what is critical of Garrison and what he did and as they reflect what the Department and its components did and did not do. The opposition to Garrison is clear in the records disclosed, although far from all are disclosed.

References to Carlos Marcello, David Ferrie and both of them together now have greater significance because of the extensive attention to the theorizing of the recent House committee, of Marcello and mafia involvement in the assassination. Right now there is extensive media attention, including on major TV programs like Today and Tomorrow as well as abroad, to this theory. It is in the promotion of a book I regard as little worth and less integrity, by one Tony Summers, a BBC producer.

The records pertaining to me, my 3/12/67 letter to the Attorney General and to what has become the longest FOIA litigation begin with 910 in this section.

910 also refers to what is not provided, any record of or pertaining to "a conversation between Martin Richman and Barefoot Sanders," or OLC and Civil Division.

It refers to what was not done, "If the laboratory reports and other items exist, there seems to be no reason not to have them in the Archives for use by assassination researchers." (In neither my 3/12/67 letter to the AG nor my request of 5/23/66 did I ask that these records be provided exclusively to me. I asked that they be made public and placed in the Archives.)

911 is the AG's letter about this to the Director, FBI. If there was a reply, as I assume there was, it is not provided. The other attachments are provided. They are my letter and 912 and 913. All confirm everything I stated then and since - that the information I sought and seek, incredible as it may appear, was not given to the Commission, as other similar materials also were not.

After noting the possibility that the records were not given to the Commission because their results were testified to, the AG also notes that other records not possessed by the Commission were deposited in the Archives. He does not say so, but this was in compliance with and response to his executive order to which I refer, of 10/31/66.

Policy is stated clearly: "It would seem desirable to make available in the Archives as much of the historical record [redacted] concerning the assassination as is possible..." He also asked if there were any reason why this should not be done.

The [redacted] letter concludes with reference to photographs. It states the understanding that "the pictures . . .which may have been in the possession of the FBI . . . [redacted] were either turned over to the Commission or returned to their owners after copies were made for the Commission." He asked for clarification not provided to me. Indeed it can't be because what was reported to the Attorney General is not truthful. There were, and the FBI had and has, photogrpahs it did not disclose having and did not turn over to the Commission. The FBI never disclosed making copies of some it had and returned to owners.

My 1/1/69 information request pertaining to some of these is still without compliance. Three of these movies are described by the photographers, confirmed by a number of other persons, as showing an unknown Oswald assodiate in New Orleans in the period immediately prior to the assassination, when Oswald was building a public rerord of participation in the non-existing New Orleans chapter of the Fair Play for Cuba Committee. (A parallel request, for the records pertaining to the fingerprints, not Oswald's, on Oswald's literature, also is without compliance for more than a decade.)

My 3/12/67 letter, oddly date stamped 12/22/67 with no records indicating why or how, nine months later, [redacted], begins by stating that the AG was seriously misinformed. I also offered cooperation. None was ever asked, not even when it was reported that the letter I said I wrote (and did write and does exist in many copies in various official files) allegedly could not be found. (In 912) Obviously, I could have provided a copy. Copies do now exist in court records. 912 refers to a search of 129-012-3, including its restricted sections. It therefore appears to be a pertinent file. I recall no records being provided from it.

913 is of 3/24/67, from the Archivist to OLC. It confirms what I have alleged in

long litigation, that the pertinent reports exist and are not in the relevant files of the Commission. I have been provided with no copy of any FBI record that disputes this in any way.

Whether recollection is faulty or whether there is another explanation, which may well be, as this letter represents, it the Archives received a request for the same information from The Reporter, in early November 1966, it could not have been earlier than my first request, in person, the very morning the Washington Post reported the 10/31/66 executive order. My recollection is that this was on 11/1/66. Marion Johnson did phone the FBI and make inquiry, and I was with him when he heard from the FBI, as I now recall, from SA Courtlandt Cunningham. (See my 3/12/67 letter, paragraph 2.)

(If the FBI did not provide, in its response(s) that you do not provide, my 5/23/66 letter and FBI redords reflecting the high-level decision not to respond, it was less than forthcoming and less informative than it could have been.)

I can confirm that Marion Johnson was told what he states, that the FBI referred him to what is attached, CD 5: 162-94, which is less than the complete record. My recollection is not in accord with his represenation here, that CD 5 holds the information I requested. My recollection is that he repeated what Cunningham told him, that this was all the information there is.

Please note that in Paragraph 3 the Archives does not dispute my interpretation of the executive order. It required that everything in the possession of the Government and considered by the Commission be transferred to the Archives. It was not limited to the property of others. The so-called death or Oswald rifle, for example, was not Government property, but it was at the Archives then and I was shown it.

Language that can have some importance for Mr. Shea and in C.A. 75-226 (the renewed litigation, on remand now) is: "There is no indication in the relevant files of the commission that the spectrographic analysis laboratory report was received by the Commission. We also have had inquiries about laboratory reports on (1) the spectrographic analysis of the metal mark on the curb of Main Street in Dallas..."(including by HW) and other tests of interest to me and within my requests. Of these the Archives states that they also "are not in the relevant files of the Commission."

In its remand decision the court of appeals singled out this curbstone and the pertinent records, as well as the claimed but unproven destruction of the thing, film, allegedly to save space - it alone of all the spectrographic plates, the others still not provided.

The Archives also confirms that the FBI did not provide identified pictures, again confirming me.

914 is the draft of a letter never sent me. It is undated and the copy provided does not reflect that the draft was made in OLC, although it was to have been signed by Wozencraft. (Part of the letterhead is eliminated in zeroxing.) In an effort to inform you and Mr. Shea I provide detailed explanations.

The opening paragraph restates my 3/12/67 letter. First mentioned in the spectrographic analysis information, established above as not provided to the Commission or the Archives. Next that the Department mininformed the Archives, which is correct and is referred to above in comment on the Archives' letter. There is and there was more than the partial summary report in CD 5. Next that I had received no reply. In all the ensuing years I still have had no reply because non-response was ordered. Then my reference to the E.O., 13967.

The draft makes a special interpretation of my letter than even if justified is not fully responded to in what is on page 2. Withholding is attributed to the "general policy of the Federal Government." In fact each withholding is represented by a sheet reflecting that it was requested by the Department or the FBI. That the withholdings pertaining to David Ferrie were arbitrary and capricious is established by the content of those records that were provided much later. (Not all are provided, however.) The withholdings are clearly of a nature to protect pre-conceptions and special interests.

Paragraph 2 on page 2 is hardly a fair representation of what the Archives letter states. It is designed to mislead me into believing that all information was provided when in fact spectrographic information was withheld from the Commission and the Archives, as were existing records containing information.

There is deliberate evasiveness in reference to the E.O. that follows. I did not

refer to the special provision of the E.O. pertaining to "the acquisition of only those 'items of evidence which were considered by the Commission'." The E.O. is inclusive, as I recall it.

You can read the E.O. and determine whether it is limited to the acquisition of property. However, I draw you attention to the confirmation of the existence of the information I seek in litigation and still not provided in the concluding sentence on page 2: "In addition, the spectrographic analysis report, being an official Government document and also not having been received by the Warren Commission, is not in the category of evidence to which the order relates."

If one were to argue, there was the Administrative Practise Act and the enacted FOIA, to which no reference is made in this draft. While the effective date of FOIA had not come, it was enacted the previous year and it does state Congressional intent.

With this partial record, previously withheld from me, including under discovery and under my 1975 and 1976 PA requests (which still have not been complied with), I think it would be interesting to calculate the cost in money and time that resulted. I am certain it is considerable and not ended. The cost in confidence in government is enormous and incalculable. I think it is past time for some consideration of this - and the fact that other of your records reflect that the FBI backed out on the legal recommendatio to which it had agreed, to moot the case - in 1970.

915 is the covering routing slip for 912. 916 is the OLC request to which 912 responds. Nothing else is provided - yet there should be much else, in addition to the withheld FBI response(s).

You have not responded with respect to the referrals or providing copies of any lists of them. My prior experience is that these can get out of hand and lead to much confusion, extra work, delay and non-compliance. Ms. Barrett therefor also has tabulated those in this batch. Of the 237 records in your list, 92 or 38% are withheld as referrals. There has been more than adequate time for some response from the first list at least, particularly where referral is to other Department components. Where these and other records are pertinent to compliance or non-compliance in C.A. 78-0322, I believe Mr.

Dan Metcalfe, Civil Division, should be informed because he has given his and the Department's word to the Court and it is clear that with these kinds of practises he is not going to be able to keep his word. I have no reason to believe that he [redacted] intends other than keeping his word, but others are making that impossible for him.

Of these 92 referrals only 10 are outside the Department. There is an additional two noted as consulting with FBI and CIA.

So you can better understand why I believe Mr. Metcalfe should be informed, C.A. 78-0322, with which C.A. 78-0420 is consolidated, includes the JFK assassination records of Dallas, the office of origin, and New Orleans. A large number of the records you have provided pertain to New Orleans and to what I do not recall receiving from that office.

This becomes even more complicated because there were extensive withholdings attributed to "previous processed" claims referring to the FBIHQ general releases of late 1977 and early 1978. That has become even more complicated by the recent discovery that almost 2500 pages of Dallas records were improperly withheld on that claim and that not fewer than this number of FBIHQ records allegedly are missing.

If these matters are not resolved [redacted] within the six months the Department requested in which to resolve them there certainly will be much wasted time and costs. I do not believe that Mr. Metcalfe intended his request for the six months to be a means of effectuating non-compliance. I therefore believe he should be adequately informed.

Sincerely,

Harold Weisberg