

Mr. Quinlan J. Shea, Director
FOIA/PA Appeals
Department of Justice
Washington, D.C. 20530

Rt. 12, Frederick, Md. 21701
7/14/78

Dear Quin,

This deals with the appeals relating to the Dallas field office files, C.A.s 78-0249 and 0322. The former relates to the worksheets.

The worksheets for Section 5 are backward and upside down. They also are numbered in reverse. In all of this they are faithful to the processing of the underlying records.

If you will wend your way to the back, where it begins, and find page 2, which, naturally, is next to the last rather than after the first, you will find what is true, in this exceptional instance, apparently because the analyst had not yet caught on to the Orwellian role he fills. Serial 625, which is the third up rather than the third down, notes after the claim to 7C "request conf." From my examination of the underlying records in this case the agents did as in all other cases within my experience, noted the request for confidentiality. In all other cases the claim ~~is~~ to inherent confidentiality is a new FBI FOIA Rube Goldbergism, an unseemly contraption and false. Now this is not to say that the request need be honored. With much of the stuff there is neither need nor justification.

Serial 623, a copy of which also is enclosed, relates to David William Ferrie and the diligent efforts of the FBI to preserve his privacy. (He never married and had no children.) Unfortunately the FBI, for all its power, cannot preserve this alleged privacy interest from the court records in two Louisiana parishes, my own several books and an incredibly large number of news and magazine articles. Then there was the great effort to get Eastern Airlines to change its mind about firing him. (Understated by the NO FO, which knew this and Ferrie rather well, as I've already indicated, as "a former Western Airlines pilot.) Nor can the FBI now withdraw what the Warren Commission published among its exhibits. If this is not enough to raise questions about this claim to "privacy" about what is withheld, the word "homosexual," then there is the fact that in the most dramatic possible way Ferrie went to his reward more than a decade ago. And if this is an inadequate representation from what is published and publicly available I can provide an enormous amount more about Ferrie, from his undoing the FBI as investigator for Mafioso Carlo Marcello (deportation case) to the extremity of his threats against JFK. I can even give you the report of the FBI agent who was in attendance upon the court with Ferrie at the time JFK was killed and withheld that information as part of a disinformation operation when, a week late, he got around to a report of a few lines.

I have no way of knowing what the analysts know but if there was any diligence, anything close to good faith, the FBI would be consulting the indexes of the published books as they process records in historical cases. If they did they'd save a large amount of Proposition 13-type money, money they are determined to waste in their campaign against FOIA and people like me.

This is a not unfair representation of the so-called "privacy" withholdings of what is largely within the public domain. I am sure I've appealed it but I'll state I appeal again to save you consulting records. All these "privacy" claims and although I am sure it is repetition, those to "national security" which should have their beards shaved first now that they are about a decade and a half in the past. The claim to (7)(E), too. (I've just come to one ~~of~~ of these in connection with a pretext interview of about 9/63.)

I've already informed you that the FBI is making (b)(1) claim for the public domain. I'll add a little detail about one instance of this. I begin by repeating, having found more cases of it, that under the National Security directive before these records were sent to me the 30-day period for action on referrals of classified material had passed.

SB

This means during the processing. It also means that the FBI was required to process these classified records as though they were FBI records.

Processed is also Orwell to the FBI, as some spot checking yesterday disclosed to me and I now to you.

In the past, when field office records were not provided, FBIHQ indicated that they had been provided from FBIHQ files. When I received Mr. McCreight's letter informing me of the processing of this one Dallas file I noted his shift of semantics. In this he said that I had already been provided with those records indicated on the worksheets as "previously provided." This, he said, was because they are in the HQ records I received. So, when I came to some (b)(1) claims or records on which from my subject-matter knowledge I knew the FBI would be of a mind to withhold under spurious national security claims I checked the FBIHQ records. In order to get this in the morning mail I'm depending on recollection. I think your staff can find an illustration in 62-109060-1338 and a few Serials near it. While the Dallas worksheets deceptively represent that I received these in the FBIHQ records, you will find that I did not, that these are among those referrals. I believe they are in HQ Section 17.

And this for the public domain!

Please believe me when I say that I am not telling you all I know about this simply because of long experience with the FBI in these matters. If I disclose more and there then is any added compliance it will be limited to what I disclose of the FBI can guess I know and can prove in court.

"National Security" for the public domain does not satisfy the FBI's compulsion for Orwellian dedication. With regard to one of these spurious (b)(1) claims they have a memory hole. I've found it.

This leads to the actuality of withholding field office files on the also spurious representation that they hold information identical with HQ records. While I have also found Washington memory holes, the proof of the one to which I refer is in the Dallas, not FBIHQ records.

While aside from Orwell my recent experiences with the FBI suggest its reading may be limited to Dick Tracy, I suggest that White House press releases are not inappropriate reading and that the President might be considered the boss. In his 6/29 statement on the new EO there are these words: "Classification should be used only to protect legitimate national security secrets and never to cover up mistakes or improper activities." He then referred, among other things, to the imposition of "unnecessary costs." (Have you been sending him my letters on this?)

Dedication to Orwell is not limited to the FBI. It is altogether appropriate that in yesterday's mail I received a copy of a letter by Civil Division's Daniel J. Metcalfe. You may recall that among my appeals is the denial of the inventory Mr. Metcalfe had promised me. This inventory was to have been prepared as he and others from Washington packaged the Dallas ~~file~~ files for shipping to Washington. He is also the same person I told I would not accept the kinds of withholdings represented by "Provided from Headquarters," not switched to "previously processed." So he wrote Mr. Mesar, long after I had filed a series of detailed appeals, that "the Bureau has made only minimal deletions in these documents and is confident that Mr. Weisberg should have, if any, only minimal objections." To this he adds what is still another effort to waste me and place the burden of proof upon me, not unknown in his Division, "Mr. Weisberg can, of course, file a detailed statement of any objections" with you.

Mr. Metcalfe appears to have a natural bent for the self-serving. He concludes,

"I know that you join me in the hope that these matters can be handled with a minimum of delay and a maximum of cooperations among all concerned."

My own view is that if there is to be either a "minimum of delay" or "maximum cooperation" it can best be achieved by a complete reprocessing of the Dallas 89-43 files and of those other files not yet delivered to me that are within my request. (Please note this ~~information~~ ^{misinformation} because I believe it will come back to us.) The FBI knew when it was not providing records that they are not identical for my purposes and are not identical in content. (I suspect its real reason was that I'd compare the FBIHQ and FO records and unload a catalogue of FOIA horrors upon it if it did not withhold most of the FO records, as it has done.) In reading the records it did provide the FBI should have learned of other and still withheld relevant records. It knew its specific claims to exemptions within records were not justified. And as you know, prior to now I have appealed all of these and other denials.

Until the FBI learns that the Attorney General and the President are the boss and it lives in accord with the policies they lay down these kinds of problems and costs will never end. While their perpetuation may serve other FBI ends it does not serve the ends of the Act. These records were not processed in accord with stated FOIA policy. All I am really asking is that they comply with the Act and these policy statements.

I mean this especially in terms of the new executive order and EO 11652 with regard to what the FBI claims is classified. I believe all the claims to national security warrant a separate review by someone in the FBI who does not live in the memory hole. Those claims that are not utterly spurious are no longer relevant after all these years.

I believe that the longer these kinds of practises continue the greater the cost will be to the Government, with court and related costs added.

So there can be no doubt, I mean my appeal to be total. I will be providing you with other examples as I continue my review of documents I have selected out of those records that were provided.

With regard to the withholding of FBI names I ask that your staff compare the first with the last of these Dallas records. I believe that the failure to withhold these names from the first records and not withholding them on the worksheets of the FBIHQ MURKIN records destroy any basis for present withholding of names from either the underlying records or the worksheets. I believe that this sample of Section 5 worksheets provides the real reason for withholding analysts names. I also believe it is outrageous for the FBI to represent to a court, as it has, that it has to withhold the names of the analysts to protect them and their families from harassment by me. At my age, in my condition and with the contrary record I have this is infamous and I protest it strongly. The FBI also alleged that disclosing their names and this anticipated harassment would interfere with the agents' efficiency. My own belief is that any change would have to improve what is generally understood to be efficiency.

Sincerely,

Harold Weisberg