

Appeals NO 1-151

To Quin Shea from Harold Weisberg, attached FOIA/PA appeals 3/1/79

By way of opening explanation for the delay in getting these January appeals to you:

I was iced in an unable to be in court in C.A.75-1996 the day you testified, 1/12/79. I used the time for review of the New Orleans Field Office files, C.A.7890420. During the rather hasty review I marked some items for appeal, as illustrations, not inclusively. (So there will be ~~no~~ ^{no} doubt all that I have written is intended as an item of and illustrative of need for appeal and I appeal the withholdings of a nature that I believe require reprocessing, as I'd warned previously.) I started writing you about these matters and quite possibly mailed some to you. Unfiled messes make it impossible for me to determine now. While I was awaiting the coming of the transcript of your testimony I did this New Orleans files work. Once the transcript came I had to abandon the N.O. work. By the time I completed the same a copy of which I sent you there were pressing matters in several cases, a number of affidavits to prepare under time pressures and two trips I had to make. Of the snow and related problems I do not have to remind you, save that we had more and as of today still have much remaining. Until early this ~~morning~~ ^{morning} it was not possible for me to return to the N.O. records and case. I believe that among the reasons for my not mailing what I now do are that I wanted my wife to be able to read and make corrections and that I wanted to attach some copies to illustrate several matters. Afterward, when she could, my wife made these copies. They may well include a few records about which I did not have time to write. There may also be other instalments of these appeals that I have not yet located in the accumulation of several months of unfiled materials.

To now I have found what I wrote on January 16 and 17, enclosed. I've read both in haste. There is some unclarity, some ambiguity, but I believe you will be able to understand it. I'll make any explanations you may request.

What may appear to be inconsistent relating to Garrison isn't. It is ambiguous. I told you that I'd not been in that courtroom before I said I'd agreed to be their Dealey Plaza expert. I was not their expert during that trial. I left New Orleans and I discontinued that unpaid work prior to the first day in court.

I refer to the providing of slips calling for indices searches. In other cases these are withheld under claim to exemption. I believe those withholdings are unjustified and that if they by any remote chance were justified this constitutes a waiver.

Later in the day it may be possible to determine whether there are other unmailed parts of this appeal.

I attach a sheet to which I've added the identifications that do not appear on it as provided, N.O. 100-16601, Vol. 1. It refers to "SEPARATE 1-A Section, filed in Closed Section." This appears to be total withholding. It also appears to provide the location of other records not provided. As I've made clear, I know of records not provided. I am suggesting that they also may be in "Closed Section."

I've marked this page 1.

It reminds me that recently I've seen reference to records within my request and marked as under seal. These are not personal records relating to Dr. King. I think the FBI should explain this in a satisfactory manner or provide those records.

I attach Serial 83, marked 2, as illustration of the FBI's addiction to Gorky as well as Orwell. How far from "The Lower Depths" is it to withhold the date under either b2 or 7d, the claims made for all the withholdings? Neither, in my view, can properly be applied in this case. Not even 7C because this is typical of most of the records that were disclosed with the Warren Commission publication and thereafter. I have no interest in the withheld information. I have interest in the FBI's dedication to violation of the Act and the supposedly controlling policy of the supposed boss, the Attorney General.

Serial 203 is within the public domain. The excised matter is disclosed in what is not excised. If this were not true the claim can't be applied to the information, whether or not it could to the source, which I dispute strongly in this case. Marked 3.

While the obliterations on Serial 277, marked 4, make it impossible to be certain, one of the subjects that fit this kind of withholding has to do with Oswald's literature distribution and printing. One of the printers was the late Douglas Jones. There is no claim to classification and there has never been a time until after the 1974 amending of the Act when the FBI did not disclose unclassified Secret Service information and the reverse, the Secret Service disclosed FBI unclassified information in this case. The referral was in October of last year. It seems to me that a half year is more than ample time for action on such a referral, of entirely unclassified information. I believe under the circumstances that this is a speak whisper so I'm appealing both the referral and the FBI's denial of the information after ample time for action on the referral.

I have no reluctance in offering the opinion, which I also believe is relevant information, that with regard to the printing the FBI over-reacted. While I have FBIHQ records in which when it wanted to avoid participation or responsibility it claimed not to have jurisdiction, in New Orleans it raised hell in Washington because the Secret Service was investigating Oswald's literature distribution. Months after this, in connection with the Commission's planned re-enactment of the Dallas killing, the FBIHQ tried to palm all of that off on the Secret Service. (As I've told you the FBI never did give the Warren Commission its copy of the Oswald literature that used the 544 Camp St. return address. This was the former address of the CIA's Cuban Revolutionary Council and of the detective agency of the former FBI SAC Guy Banister - and others. The desperate Commission finally got a copy from the Secret Service.)

If these withholdings, including of name, do not relate to the printing, which I provide as explanation of one of the motives for improper withholding, what I say about the withholding remains pertinent to it.

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While I do not now recall the purpose for which I made a copy of the worksheet for Volume 9 marked 5 I believe it is a satisfactory if not excellent illustration of the impropriety of withholding under claim of "Previously processed."

There are 12 entries on this sheet. Of these 10 are withheld. The 10 total a mere 12 pages. In terms of cost alone providing them is cheaper than going to all this unnecessary trouble to withhold.

There is no claim of which I am aware, certainly no competent affidavit, attesting that all are identical copies, that there is no information on the New Orleans copies not on those alleged previously processed. (Which the record leaves without any doubt does not mean provided and in fact is a common reference to other withheld records, thus a deception.)

It is without doubt that some of these records hold information of possible value to me and historically that is not on the copies allegedly previously processed.

The real reasons for this gimmick include avoidance of probable embarrassment and to make more difficult proving improper withholdings, as I have done when I've had both copies. In fact - and not from your office - I've been told that there would be care in the processing of the field office records to make it difficult if not impossible to establish improper withholdings from the FBIHQ records.

The FBI's position is that if it provides the record or a cross-reference it is doing research for me and is not required to. My position is that the record is within the request, the FBI is required to provide it or meet a burden of proof in justifying the withholding, and in asking that instead of the meaningless "previously processed" a reference be included I was only offering the FBI a compromise that would still enable it to withhold information.

I here and now contest that those who processed these records know for a fact that those cited as previously processed a) were in fact ^e previously processed and b) are identical, meaning that there is no single entry on one not on the other. All the processors know is that records were forwarded for processing or that the volumes in which they should be included were supposed to have been processed. I know of no claim that in any one of these thousands of cases there was any actual checking to make a specific, positive first-person determination.

The cost of 12 xeroxes is enormously less than all the work done to avoid providing them. Multiply this by the thousands of cases and a small fortune was wasted for purposes that are not proper, to withhold what might prove improper earlier processing, etc.

Another purpose served is to withhold Serial 371. Instead I was provided with the attached sheet marked 6. I was not provided with a copy of that serial, which refers to a familiar name. It was sent to the Jackson office, from which no records have been #previously processed." This indicates the continued withholding of that Serial.

The page of Volume 13 worksheet, supposedly a copy of an original record, if it were
ought not be as illegible as it is. Some dates, for example, cannot be determined. This
has added importance from the fact that nine of the 12 entries are allegedly "previously
processed." Two of the others are Secret Service referrals, for which see above. (Of course
I intend this to refer to all referrals. I believe there is no DOJ backlog but there are
DOJ referrals on which there has been no action after long periods of time.) This one is
marked 7. Another, 8, may have been to show the frequency of such referrals as a result
of which I have not received any records. There are three more, also to Secret Service,
in 9. These two pages reflect the extensiveness of the "previously processed" claim.
Only one of the 24 Serials, a single page, is released to me here. It appears entirely
unlikely that some of the New Orleans copies of these records do not contain information
not included on the copies allegedly "previously processed." At least one relates to a
known ~~but~~^{FBI} source, so disclosed by the FBI.

I also enclose a copy of a correction and amplification of my earlier appeal relating
to Oliver Patterson and King assassination records.