

Mr. James A. Hall, chief  
FOIPA Section  
FBIHQ  
Washington, D.C.

9/25/85

FOIA No. 62,749

Dear Mr. Hall,

Your letter of the 19th and its enclosure make me wonder. Not about your dishonesty, cheap tricks and misrepresentations because they are your usual practices with me and with FOIA. Not that the FBI seems to devote itself to creating problems for an aging man who is unwell, because that seems to be the means by which some careers have been advanced. But I do wonder that in all of this and in your at least to now immunity from all offenses, including undenied criminal offenses, you have forgotten the first law, "Cover the Bureau's ass," and the first injunction under it, not to embarrass the Bureau.

You have finally gotten around to subminimal compliance with a request for information so old that more than seven years ago you wrote me that you were working on it, and the amount of work involved, in your representation, is only 507 pages of which well more than half is of published material and thus very little work. So, you've stonewalled me, probably until you could no longer stonewall another to whom you've sent the same pages, and you've a few more Brownie points. But have you thought of what you've done in any context other than the SOP of treating me badly? Have you remembered that this is a subject in which interest will never die, what J. Edgar Hoover himself would forever be an open case in the FBI?

A context you might consider is also appropriate to your mailing when I get around to addressing it. A President, who is disliked by the FBI's director, who absolutely detests the President's brother, is assassinated, the FBI seizes the case without jurisdiction and then is able to manipulate the President Commission for which the FBI provided most of the investigative and technical services, and as it did prior to any investigation, the FBI concludes, as the Commission also did, that there was a lone nut assassin. No conspiracy, foreign or domestic. The FBI's and the Commission's lone assassin, Lee Harvey Oswald, has a background that, supposedly, the FBI investigated thoroughly. No stone unturned in your jargon.

Only from the very beginning, from the FBI's first examination of Oswald's records as a Marine, there are serious errors and conspicuous omissions. You can take my word or not, it is true. Part of this background has to do with Oswald in the USSR, to which he went and where he pretended to defect while managing not to.

After the assassination, the KGB conducts its own investigation of Oswald in the USSR, and at a fairly high level within the KGB its investigation is under an agent who himself soon defects to the CIA, Yuri Nosenko. And Nosenko tells the FBI, among other things, that the KGB suspected that Oswald was an American agent in place or a "sleeper," and that Oswald was anti-Soviet. Nosenko also tells the FBI that the CIA is treating him well and paying him \$500 a month in addition to keeping him, a good income for that day. Then the FBI sends copies of its reports of its interviews with Nosenko, which includes the KGB's suspicions about Oswald and lo! Nosenko is spirited away and subjected to three years of what the CIA itself later described as subhuman treatment and, although the FBI asks it, is never again given access to Nosenko. And the FBI keeps silent about this denial of access, even though it records grounds for not believing the CIA's explanations for representing Nosenko as a devious KGB plant. (Your just disclosed records include only two of the ever-shifting CIA explanations for its instant distrust, which is remarkable because the later and third one is that Nosenko was dispatched to disinform about KGB involvement in the JFK assassination. And the FBI itself knows that there never was any doubt that the KGB had no such need because the FBI itself leaked the coming official solution to the crime while pretending to investigate that leaking.)

Meanwhile, and this is carefully hidden in what you've just sent me, where there is not even a hint of it, the FBI conducts its own investigation of Nosenko's bona fides and draws its own and also withheld conclusions, which are not those of the CIA, and about this, too, the FBI is silent until the information it has given a previously sycophantic writer is out. (Which means, of course, that you are now withholding the public domain from me, to which I'll return.)

So, we have the FBI, our premier police agency a major part of whose functions are devoted to what it refers to as internal and national security, beginning with doubts about the CIA's claimed reasons for not trusting Nosenko and the information he provided, and satisfying itself of his bona fides, keeping all of this secret first from the Presidential commission and thereafter from the nation. If the FBI had wanted it, it also had some confirmation of Nosenko's report that Oswald was anti-Soviet, for that is in Oswald's secret writings, which the FBI had. (He called the Russians "fat, stinking politicians" and said that the U.S. Communist Party had "betrayed the working class," for example.)

We also have the record of what the FBI did and did not do with other information provided by Nosenko, the FBI with the internal and national security responsibilities. Nosenko reported success in recruiting American tourists. This is in the records you've just sent me. But there isn't a single word reflecting any FBI interest in this or any action based on it or even a request of the CIA for access to Nosenko so that the FBI may learn the names of the Americans Nosenko recruited for the KGB. Nor is there even a suggestion that the FBI asked the CIA for such information if it had gotten it from Nosenko. And from what you've just sent me and represent is complete, you didn't even demand that the CIA make him available so that the FBI could meet its obligations and learn about the Americans he recruited from Nosenko.

I could add more, but I hope that by now there is no need for you to be able to understand that there just may, at some point, be developments that with this its record could be very embarrassing to the FBI, much more embarrassing because of your record in what you've just done - and not done - in response to my requests. Yes, there were two. You mention only one.

My second request is for only copies of what you had already disclosed to the sycophantic writer I refer to above, Edward Jay Epstein. Meeting that request required no processing at all. It required only ~~reworking~~ what had been processed and mailing, no more. The fact also is that the FBI had been instructed to and had agreed to provide duplicates to me of what on this subject matter it disclosed to others. (With records disclosed to me, the FBI even solicited the interest of others and in at least one case carefully selected records the use of which it could and did angle in its own favor.)

After all these years why have you not provided me with copies of the Nosenko information disclosed to and used by Epstein? That information includes both the FBI's checking of Nosenko's bona fides and disclosure of its Russian informer known as Fedora. Epstein published in early 1978. The records you represent to be complete hold only one reference to his Nosenko publication, 2/22/78, which reports you have copies of the drafts of two serializations. There is not a single additional page and you ~~are~~ many. You also have, I'm confident, copies of the FBI's own inquiries after its fink Epstein kicked it in its teeth.

Fedora vouched for Nosenko's truthfulness, Epstein was out to get Nosenko, he exposed your boy Fedora, and there is no record indicating whether or not anything happened to Fedora? And the FBI had no interest in whether the KGB would do anything to its highly-placed informer Fedora? Who can believe it?

None of these withholdings is explained or addressed in any way in your letter, although you pretend to have justified every withholding. I am sure that if you made

any search at all you have the search slips, you have provided them in the past and I now ask for copies of the worksheets reflecting the search made in No. 62,749. I believe that you will resist it because, among other things, it will provide new proof of your and FBI untruthfulness. Particularly with regard to the withholding of entire serials, which you have done in a manner that makes any effort to address them on appeal impossible. There is no way in which I can know what claim is made to withhold any such record or even any page within any of large number of them. And, beyond question, much of that material is within the public domain.

Public domain - ah, you were cute there! I wondered when I first opened the package why you departed from your consistent practise of the past, why you did not provide these records by section, your undeviating practise with me of the past. I wondered also why you endeavored to palm this off as a single section by trying to bind it all in a single volume when the Acco fastener you used could not accommodate the closure? That was a cheapie and you ought not be proud of it. That was your way of hiding the fact that almost as soon as you received my request most of what you now provide was not withholdable and required little more than xeroxing for disclosure because it is printed matter. What you did is merely pretend that the Sub A, which has no separate identity in what you've just sent me, is not a separate Sub A, which you could have provided soon after receiving my request - and under the law you should have provided promptly - with little time and effort but instead you withheld until you sent his records to Mr. Mooney. (Remember my telling you so very long ago, don't you dare call me a Mooney?)

In any event, it simply cannot be true that most of the records in the one Nosenko file to which you restricted yourself had to be ~~but~~ withheld in <sup>their</sup> ~~the~~ entirety under the exemptions you claim. You have withheld by far most of FBIHQ 65-68530 knowingly improperly.

On at least two counts you are untruthful in claiming that you would be violating Nosenko's privacy by releasing any record dated after the CIA's House Assassins Committee testimony of 11/16/78. First of all, with executive agency approval, the House published much more than that and the FBI's testimony. It published large appendices and you ignore that. Second of all, there is much public domain information necessarily included in what you withhold in its entirety on this Rube Goldberg legalism. There also is the question of whether as a public figure Nosenko has the overriding privacy you claim or whether public interest overrides and, moreover, there hasn't been any Yuri Nosenko to have any privacy for these many, many years. He no longer exists and thus cannot be damaged by any disclosures. He has an entirely new identity and lives in this country under it. (How cute you were to tell me to get a written privacy waiver from him when his new identity and location are unknown except to the government and the few writers to whom it has disclosed them.)

There are other complete pages withheld without any explanation of justification in your mailing, which limits the claims to exemption to those posted on the records and to your omnibus claim addressed above. The documents themselves refer to additional pages withheld in their entirety. In the past you have undertaken to explain this with the worksheets you provided but in this instance withheld. I therefore ask for them and intend to use them to amplify the appeal I will be filing with this letter as an attachment to it. In addition, some of the records refer to attachments you ~~neither~~ provide not claim any exemption for.

The claims made on the records themselves are often ludicrous. You withheld copies of published information without claim to exemption for all these years (in addition to withholding the entire Sub A) and you had even claimed classification to withhold newspapers stories, including photographs of Nosenko. You made a national security claim to withhold the location on an FBI field office, all of which are published by the FBI, and then when the entire text of the record was withheld.

How much sillier can you get? And much if not most of what was withheld as classified until 1978 was before then in the public domain. In addition, how, particularly when you wrote me in 1978 that you were then going over these records, can you justify withhold what was removed from classification in 1978, more than seven years ago?

I remind you also that with regard to my requests the FBI was informed by the Department that records are relevant not by how the FBI has them filed (or misfiled) but by their content. I have indicated enough content in the foregoing to leave it without doubt that the FBI has and knows it has relevant records it has not provided, does not acknowledge exists and for which it has made no claim to exemption in even so shabby a claim as you signed and sent me.

In this regard, these records I've just gone over indicate the need to search for Nosenko information in the admat, 66 classification. You know very well that the FBI uses it for hiding surveillance information, such as wiretaps and bugs, etc. Then also it has relevant Nosenko information in the files of its relations with the CIA and other agencies. Quite separate from your phony search, your people cannot have processed what I've just read without recognizing that a considerable amount of additional and relevant information exists and where it exists. Like 105s.

There also is what cannot be believed, that neither FBIHQ nor any field office, like WF, WFO and NY, sent so much as a single sheet of paper to the Office of Origin, Dallas, or to New Orleans, virtually a second Office of Origin. Or any other, as for example, in checking Nosenko out. Others are involved, in records.

There is much Nosenko information in the WFO and WF files you do not provide and my request was for all information.

There are repeated references to an addendum to explain some withholdings but you did not provide that addendum.

You withhold the FD302s prepared after your agents interviewed Nosenko and you refer to content not included in the copies in the Warren Commission files, which I have.

In Serial 28 you withheld even the date by blacking it out and you withheld this record from me even though a visible stamp says it is in the reading room. On several other records a Secret classification is claimed for even dates of the records.

There is more but I believe that this is more than enough to let you know that once again you have behaved not only badly with regard to FOIA and me but also possibly foolishly in ways that can at some point be seriously embarrassing to the FBI. I do not say and I have not provided as complete a context as I might but I am not trying to blindside you and, if not from the FBI, I do have the official records that leave it without doubt that there are serious errors, omissions and perhaps oversights in the FBI's checking and reporting of Oswald's background.

After all these too many years, I ask again that you stop playing these unseemly games that in themselves reflect on the FBI and comply with both my Nosenko requests. For what was given to Epstein, already processed, and for your withholdings under my request for all Nosenko information.

Privacy P.S. You don't know if there is any possible privacy concern until you process the records you have not processed.

Sincerely,

  
Harold Weisberg