

Dear Jim,

2/16/85

I've mailed the letter we discussed to Huff and now a few additional thoughts about that suit. First, should it be broadened to include the Mexico City intercept records and then who to include as defendants charged with failing to perform official duties. You once sent me a DC decision in a case, not FOIA as I recall, successfully making such allegations.

While it is possible that national security claims can complicate the M.C. stuff, they ought not be applicable to the actual text of the transcription and Phillips did disclose in the Freed case deposition an inside source at the Cubans. Everything except the actual text of the transcription has been disclosed officially. While it may complicate a relatively simple case, there is the question, is the information worth it? I think it probably is, whatever it may be. I think that Phillips referred to transcripts in the plural and I know that one was sent to FBIHQ from Dallas after it sent a three-page TT summary.

Those who as I see it failed to do their duty are the FBI director, the assistant secretary, Records Management, Hall and Phillips and in the DJ the AG, the head of the component of which OIP is part, the two co-directors and perhaps Hubbell.

It might stretch customary legal thinking, but if we regard LaHaie as an officer of the court with responsibilities coming from this, then he was informed of all he needed to know through my affidavits, which he received, did not exercise his responsibilities as an officer of the court, and can be included as a defendant.

They may argue that the Nosenko records are exclusively HQ, but that would mean that HQ sent nothing to Dallas or NO, which I think is not probable. However, with regard to both the police broadcasts and the Mexico City stuff, LaHaie is involved.

This approach would change the usual FOIA posture in court and, if we were lucky enough to get a decent judge, is consistent with the stated purposes and intent of Congress in enacting FOIA. It also focuses on disclosure juxtaposed with open stonewalling by many officials.

They took advantage of having a Smith for the judge and in this kind of litigation that can kick back on them. If LaHaie has the responsibilities I see then what I provided on the police broadcasts and he received, now confirmed, nails him with the rest. And do not forget that R the FBI provided the proof that Phillips lied in an area of personal knowledge, HQ records, in attesting that the tapes went to the Commission and not withdrawing that after the HQ records showed the opposite. No covering letters when I asked for them, not from DL to HQ and not from HQ to WC.

Hubbell was assigned to this material under Shea, and that means beginning very long ago. As of today, despite their regulations, she has provided nothing and the FBI and OIP still withhold the located dictabelt and records admittedly found withit.

There are probably other relevant considerations but I put these down for thinking and discussing. Di Genova, for example, is on the pleadings.

Best,