Mr. James K. Hall, chief
FOIPA Section
FBIHQ
Washington, D.C. 20535

9/30/85

FOIA 62,749

Dear Mr. Hall, as appeal to Mssrs. Metcalfe and Huff, OIP

When I wrote you 9/25/85 I had not been able to go over the Sub A pages you pretended were part of the FBIHQ Yuri Nosenko main file. As you know, I am not well and I was not able to draft the appeal until the next day. I have now gone over those other pages, which only begin with the "A" marking, and I find that an appreciable percentage of them bear no identification with this main file and, indeed, never came from or went through your central records system, which marks all records it processes and files. How they could be retrieved is an unexplained mystery. In turn this adds to the importance of your providing copies of the work-sheets and search slips, which I did request.

I wrote you about the obvious incompleteness of what you provided and did not explain away by any specific claim to any exemption. In fact, one of your own records sandwiched in after the Sub A records is unequivocal in stating that even the claim to "national security" for these records is not justified. And you even provided me with records establishing the existence of other relevant records and the knowledge of this by those of your people who processed these records. For example, 65-68530-1733 begins by stating that copies of two drafts of Edward Jay Epstein's condensation of his book Legend are attached. They are separated from this record in what you sent me and no copies are elsewhere among those pages. It next states that "All offices were advised by Bureau airtel dated 2/16/79 . . .those articles . . . contain references to information allegedly furnished by the CIA and FBI..." (which just happens to be the subject of my other Nosenko request you continue to ignore). No copy of the all-office advisory is included in the records you provided and, obviously, no records relating to what, if anything, the FBI did about the use/possible misuse of its information or of any denial that Epstein obtained and used FBI information, all normal FBI practise that is put on paper and preserved. (And in the light of the other content of this record as well as what has been disclosed officially, I question the b1 claim for the final paragraph.)

It is normal FBI practise for communications covering the forwarding of information, including clippings, to be kept in file, yet that is lacking in this stuff that central records never saw and it comes from all over the world, from as far away as India. How it got to FBIHQ and into this file is not recorded and not explained.

There also is a fair amount of entirely unrelated information that also has no filing notations and I do wonder how it got into this file and whether it replaces relevant information that is not included in what I've received.

This is an espionage file from your own file classification, Can it be that the FBI singles out records relating to espionage, truly a subject of "national security, for exclusion from its central records and preserves them with no indication of any means of retrieving them?

Of this pot pouri without any filing markings I was particularly taken by your copy of the title page, copyright page and pages 627-9 of my Post Mortem, published in 1975. The FBI did not obtain a copy from me, nor did the Department, and because I went to the hospital while the book was being printed I was not in a position to arrange for its sale in Washington. How the FBI got the book or these pages of it is not indicated, nor is any filing of it. There is, for a published book, a b3 claim for a notation in the upper right-hand corner of the title page, or you claim that the notation on what is within the public domain is "specifically exempted from disclosure by statute," and you do not tell me which statute you claim applies to this.

Then, what is really cute, even for you, is the stamp at the bottom of the page - all public domain since 1975 - your section, apparently, reads "ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE" and no date is given followed, in handwriting, "see Addendum," the addendum you did not provided. This concludes with the number 190-709-103X1 and 190 in the FBI's file classifications is for FOIA.

In an aside I ask you, for God's sake, did the FBI spend tax money deciding whether what I published and make generally available is subject to or had been subject to classification? How unreal do you people get?

On page 627 the standard FBI marking for subject filing is affixed around Nosenko's name, with the marking for see references for the names of the FBI SAs who interviewed Nosenko. I see no other markings so I can only wonder how this got into and was retrieved from the main Nosneko file. And, of course, any related FBI records are withheld, and there generally are relevant records, with "vicious" among the favorite standard descriptives of what the FBI is unable to fault on accuracy.

Now there are, quite obviously, relevant records, your processors certainly were aware of this, and they are withheld, without any explanation or justification.

This, together with the records, few as they are, relating to Epstein is quite interesting because we are among the earliest of those referred to (other than by the FBI, which as I indicate, has its own descriptives) as "critics," the FBI was directed to provide me with all its records relating to "critics" and the special agent who by now, may be an eminence among you, John Phillips, has sworn that the FBI has no such records. My, my, MY, Mr. Hall!

Oddly, too, the FBI is supposed to have provided me with all its records relating to me and I do not recall this among those pages. (My appeals of long ago are religiously ignored, which isn't all that unusual, is it?)

Also certified as containing no classified information, also by 190-709-103X1, is an Epstein artgile in the New York Times of 4/20/69, not on Nosenko but on Jim Garrison. Epstein, who had a long record of defending and working with the FBI, went after the other "critics, " not always accurately, and in some way not immediately apparent, other than through cozy government relationships, he appears to have had access to tapes of my talk-show appearances, none of which were anywhere close to where he lived. At least he pretends to quote them. Somebody also told him-perish the thought that it was anyone in government because it isn't true - that "Weisberg himself once worked for the lawyer Oswald had asked for when he was apprehended." (It is, however, true, whatever Epstein's undisclosed source, that a stepbrother I'd never seen until long after David Ferrie was dead treated Ferrie for a disease that caused him to loose all his hair. The stepbrother, too, is now dead.) But again no markings for any filing, which is exceptional because the subject is always indicated together with other references and, of course, the file or files. And what a Garrison record is doing in the main Nosenko filed in which it is entirely irrelevant is a mystery.

Another of these mystery records, another bearing no added markings other than 190-709-103X1's stamped assurance that this newspaper clipping, too, is entirely unclassified, bears on an aspect of the caution I suggested earlier, of areas in all of ~~that~~ this that may, in time, be embarrassing to the FBI. While the CIA was telling the FBI that is believed Nosenko was not trustworthy because he could be a KGB plant to embarrass the U.S. at the Geneva disarmament conference, in a matter of days, 10 only between the FBI's memo on it and this clipping, our government offered Nosenko political assylum. In sharp contradiction of the CIA concoction that the Russians planted Nosenko and that he would surface for them to embarrass us, the State Department also offered the USSR access to Nosenko. From the records provided me, the FBI was without question about either this CIA concoction or the one it then

made up to replace it, that he had been dispatched by the KGB to confuse western intelligence agencies. Meanwhile, Nosenko was providing additional information, but there is no reflection of this in the supposedly complete record you have provided, there is no record reflecting any request by the FBI for any information, and the information Nosenko provided and was testified to by the CIA is not subject to any claim for exemption.

There also are no indexing marks on this record.

Perhaps there is a clue to this mystery of the records that have not been filed, can't be and can't be retrieved in the FBI's system in the 3/1/64 article by an earlier defector from the KGB, Peter Deriabin. Aside from the assurances by your 190-709-103X1 that the New York Herald Tribune also is entirely unclassified, there is one other addition. No, not any indexing or filing markings. Rather what I've seen on many ticklers. There is a handwritten notation, "Nosenko case." And how else could such a collection of records exist and be retrieved? But of course your SA Phillips swore and persevered in his swearing that all FBI ticklers are routinely destroyed after a few days and this and most of the other records with it are now 21 1/2 years old.

Whether or not a fact but consistent with these being copies of records made from a tickler or ticklers is the appearance among them of xeroxes of carbon copies of airtels from WFO to FBIHQ, to which it sent originals while it kept the carbons. Moreover, while these records bear no FBIHQ indexing or filing markings, they do bear the filing stamp, file classification and number and serialization of WFO. There are other indications that this is a copy of a WFO, not an FBIHQ record, and this also is true of what follows below. For my purposes I've selected three such records, all WFO copies and serialized by it in its 105-37111 file.

Serial 205 states explicitly that the Oswald information obtained from Nosenko "has no effect on the national security," which no doubt accounts for its being kept secret for more than a decade. It also suggests that disclosure of it could be embarrassing, which explains some of the farout claims to classification when there is nothing classifiable. And, naturally enough, this particular paragraph was and was kept classified Secret until this year, with classification extened 2/5/79 by the FBI's # 2333 who, in my extensive experience with his rulings, is capable of classifying the bible.

And if for a minute you think this is an exaggeration, while he was extending the classification of the record which states that the Oswald information from Nosenko was not subject to classification, he was classifying it all over again 2/5/79, the very same day, in both WFO's 3/4/64, 105-37111-217 and the attachment, a memorandum, Serial 216. And WFO's SAs interviewed Nosenko only about Oswald. And his rubberstamp flailing was six months after the CIA's and FBI's public testimony before the House committee about Nosenko (which was not limited to Oswald in any event). (#2333) He is consistent and contagious for the next day he extended the classification on WFO's 3/7/64, serialization eliminated in xeroxing, which WFO hadn't classified itself. It contains only Oswald information, which WFO correctly stated was not subject to classification and he did that long after the official public testimony. So, two notations were removed from classification and instead b2 and b7D claims were made to withhold them. I question the appropriateness or need of these claims.

So, on the basis of what WFO stated to begin with, you had no basis at all for withholding this information from me for all these many years and for more than seven years after you told me the records were being worked on.

And in all these pages of clippings you've given me Epstein's totally irrelevant writings but withheld what he wrote about Nosenko, which is quite relevant and in fact comes under my other Nosenko request you continue to ignore. 9/80 A

If these pages do in fact come from a tickler, is it by any chance WFO's? How

else could WFO's serialized carbon copies get into it when if it were an FBIHQ tickler, the FBIHQ copies are the originals?

And after going over every one of the 507 pages you provided, I still find no suggestion of any interest by or of FBI providing any Nosenko information to the several Congressional committees which, I am certain, asked for and received it from the FBI. Obviously this information exists and without question is within my first request, which was for all the FBI's Nosenko information.

Despite the brownie points and promotions from frustrating the Act and requesters, abusing me and running up costs, and I know of these things from personal experience, if you, personally or orgahizationally, are subject to embarrassment, what you have at long last done to claim complaince with one of my two, both ancient Nosenko requests, ought be embarrassing. If I do not like what you've done and not done, you tell me that I can run up my own costs as well as the government's by appealing. And not only to OIP. You list Army, Navy, Air Force and State (surprisingly, not CIA) but there is no indication in any of what you sent me that any record of any of these agencies is withheld. Not one! So what am I to appeal to them?

Sincerely,

Harold Weisberg