

Dear Jim,

9/26/85.

I've just finished writing a Nosenko appeal to both Metcalfe and Huff, using not impolite language they will not like, and I was reminded of my desire to do something that I had not heard of being done before and took up with you early this year. You'll remember, I think, with my telling you that I intended to phrase what I wrote Huff in terms of a birthday present for myself. I planned and after getting your assurances I did give them to April 8 to act on my Nosenko and Dallas police tapes appeals. If they did not you were going to file and I reminded you later and you said you'd not forgotten.

Now that I have the relatively few Nosenko records the FBI elected to let out I find confirmation of my instincts. I am not optimistic about his interest but I have a call in to Mark Lynch and I'm awaiting his returning it.

With the content of these records and of what they've continued to withhold and what they do not acknowledge having and do have, even without what I can add, this can be enormously helpful to preserving FOIA and with any interest and use can be valuable if there is any possibility of strengthening the Act, as the Association of Professional (ugh!) Journalists wants to do. There is enough in what is in my letter to Hall and as you know, there is more, more that in a proper forum, can be rather dramatic and, with any press present, because of the possibility of competition, might get attention.

The FOIA record in itself is something. I do not recall the date of my first Nosenko request of the FBI (and I had separate requests with the CIA, which it ignored). The second was filed after I learned that for his book Legend Epstein got FBI records. This request is limited to what was disclosed to Epstein. What I then had in mind is that complying with that request required only xeroxing of the FBI. It hasn't yet done that, after at least seven years. Returning to the first request, the FBI wrote me in 1978 that it was then working on it.

I remember including a copy of that letter in my more recent appeals, which the appeals office still ignored.

So, most of what I've just received was public domain by nature, published, and most of the rest was declassified in 1978 and I presume it is what the FBI had in mind when it then wrote me that it was being worked on. Actually, what was then, rather before then, classified was also largely if not entirely public domain. What they classified and withheld from me includes what they leaked to O'Leary. The records I've just received includes what O'Leary printed in the Star, and you can lay the records and O'Leary's story side by side and obviously the FBI is O'Leary's source. (I've not read the published part of what I've just received and probably won't right now.)

I'm enclosing copies of my few pages of notes on the small selection of these records of which I made copies for filing separate from the originals. Serial 5 is the record stating that Nosenko was successful in recruiting American tourists. I know of nothing reflecting anything being done about this and there is no record in what I've just gotten indicating any action, interest or request of the CIA for any more information. Also serial 5 mentioned above. See top of page 2. All marks are FBI's.

At this point Gardner returned my last week's call and I sat too long so I'll knock off for now and get this ready to mail.

Best