

King appeals - ballistics (4/15/75 - Horn 1)
attach. in chron file

Mr. Quin Shea, Director
FOIA/PA Appeals
Department of Justice
Washington, D.C. 20530

11/8/79

Dear Mr. Shea,

You and/or Mr. Mitchell had questions relating to the following captioned subjects that relate to my JFK and King assassination records appeals:

The originals of statements taken from Texas School Book Depository employees Compliance with Item 1 of my 4/15/75 request for King assassination ballistics records

Birmingham King records included in Mr. Mitchell's affidavit attached to the Department's Motion for Partial Summary Judgement
Withholding of what was disclosed by and in the records of the Warren Commission

It was late last night when I located the attached relevant records. I have not included attachments when they are not necessary and in several instances have the relevant page only.

I regret that I did not notice that the colored date stamp did not copy in your letter relating, among other things, to the withholding of what was disclosed in the Commission's records. It is of last month, as I recall, perhaps a month or so earlier.

While you do begin what you write relating to withholding of what is disclosed in Commission records with "I am advised," you do not respond to what I wrote you, which is attached to your copy, and you add that there were errors during Onslaught days but they were corrected. They were not all corrected and the worksheets ~~with~~ which I provided you disclose in the other cases the intent of withholding what had been disclosed and was in the public domain. Since then I have provided you with other illustrations of the withholding of what was disclosed more than a decade earlier.

To put this more bluntly, the FBI was not truthful with your office and your office blindly accepted its untruthful statements relating to both withholding and intent to withhold what was in the public domain.

In writing you about the originals of statements the FBI prepared for the signature of Oswald's fellow employees I did not state that they were not somewhere in the great mass of what was disclosed without any guide to it. My letter of 10/19/79

is attached to your response. I wrote, beginning six lines from the bottom of page 1, "These retyped copies are 62-109060-2729. This serial does not include the originals." The underscoring was added in your office. At the end of the paragraph someone wrote "Inquiry." If you sent a copy of my letter to the FBI the FBI should have understood clearly enough that I did not allege that the originals were nowhere in the uncollated mass it disclosed.

This situation would not exist if the FBI had not pretended it had no index when all indices are within my request. It still would not exist if after more than a year the FBI had ~~not~~ processed the index ~~and~~ had ~~not~~ provided any pages of any part that might be processed. (My particular interest is in the As.)

Because the Dallas indices were included in the one copy of any of the 59 responses to an FBIHQ request for inventories of all JFK records held by field offices I am reminded of continued withholding, including of what may be relevant to the Memphis King materials indices. In the King case, as I have reminded you often, again only one of the 59 responses escaped the diligent FBI withholders, the inventory provided by Chicago. My first appeal from these withholdings was about in early 1977. ⁴One of the appeals has been acted upon. These are clearly MURKIN records. They are so captioned in the request and the responses. There are other such inventories no copies of which have been provided.

There is a specific item of my King requests that asks for all indices. There was no response to this 1975 request until later in 1979, two months after the judge issued an order on it. Then the response was evasive and less than truthful if not in fact false. This makes the Memphis responses to the HQ requests for inventories even more important and I again ask that you provided clear and complete copies of all as promptly as possible. As I have already informed you what I found in the Dallas response would make what was provided relating to the Memphis index an impossibility. If this is so the judge and I should both know and I want to be able to make the determination. Besides, the records are within my request and remain

withheld after four years and after all my appeals.

Ms. Barrett is still in Vermont because of serious illness in her family. In her absence I could not immediately locate all records relating to non-compliance with the ballistics item of my 4/15/75 request. However, I did recall seeing a copy of the particular letter in question in discovery material provided for the depositions. This is the FBI's copy, 190-709-71X4, attached. I wrote ~~earlier~~ and with more vehemence because your Volney Brown rewrote my requests for Mr. Tyler's signature. This is how Mr. Lesar's 12/29/75 letter begins. In it he repeated my request for all such records rather than the Department's substitution. He stated, in the second full paragraph on page 2, that despite my having written about this I had not received the information. He also said that I had not received all records relating to the spectrographic and neutron activation analyses. As I ~~wrote~~ ^{stated}, I still have not.

A few additional pages were provided in a conference we had with the FBI several months after Mr. Lesar wrote his letter, it ~~taking~~ ^{having taken} the FBI four or five months to set that up. But even what the Tyler letter admitted existed and had been located and I did repeat my request for still has not been provided ~~with~~ in compliance with that item of the 4/15/75⁵ request. Nor have the withheld spectrographic and neutron activation analyses records, other than the few pages of handwritten notes provided at the ⁿ conference referred to above.

Whatever Mr. Mitchell has talked himself into relating to FBI intentions relating to compliance and withholding, this is the record with regard to one item. With regard to two other items of that 4/15/75⁵ request, as of the time of the recent depositions the searches had not been made! Those are items 5 and 6.

With regard to continuing intent I refer you to the transcripts of those depositions. With particular reference to the ballistics records still not provided ⁺ refer you to the Kilty deposition, beginning on page 40. There you can judge for yourself what the Department's intent, including the intent of Department counsel, can have been. It clearly is not even a belated intent to comply and since then, almost a month, I have

received nothing and I have heard nothing.

In informing you that there still has not been compliance with what was admittedly withheld from the Birmingham King records I also stated that proof of this is attached to Mr. Mitchell's affidavit, which is an attachment to your affidavit.

In response to the 9/14/77 letter signed by Director Kelley I wrote on 9/17/77. My letter is Enclosure #2 to Mr. Mitchell's affidavit. The first page is attached hereto. The very first itemization of what I told the FBI I do want is this Birmingham material. It has not been provided by the FBI or by your office, despite your affidavits. When my letter is an attachment to your affidavits I believe your office should have been aware. If it was not then it certainly should have been by means of the affidavit I provided in response.

Or has Department counsel continued to withhold information from your office since the judge involved you in this case?

Bearing on FBI intent other than exists in Mr. Mitchell's mind ^{is} the cockamamie explanation for the original withholding, ~~is~~ that a standard-size printed and/or typed page is not suitable for xeroxing.

First the FBI withheld, then it asked me if indeed I desired this and then when I said I do it continued to withhold and does for more than two years since. (In citing this alone I am not saying that the other items have been provided. That is, I believe, addressed in my responding affidavit.)

If there are other records I was to provide, please let me know. These are all I recall now.

Please add a caption referring to the withheld King and JMK records ~~inventories~~ inventories.

Sincerely,

Harold Weisberg