

2

Withholding of what the Warren Commission disclosed (Quin <sup>Shea</sup> ~~Shea~~ to the contrary notwithstanding)

FBI 1977 classification of what the Commission did not classify to withhold what the Warren Commission published (again Quin Shea to the contrary notwithstanding)

Preassassination records on Oswald (separate FOIA request not complied with)

Oswald-Mexico records

(Unnecessary and improper) referrals not yet acted on - after more than two years

Under date of 3/26/64 the Commission wrote the FBI seeking amplification of the information on Oswald prior to the assassination that the Commission had received. Attached to the letter was five pages of questions.

The Commission did not classify its letter and questions and indeed they are not properly subject to classification.

But then 2040 got his cotton pickin fingers on them and they became "SECRET" in the 62-109090 file.

He apparently did not check to determine whether this record is available in the Commission's records at the Archives or to determine whether all or part was published by the Commission. For that matter, although the record states that the original is 105-82555-3202, he did not check that file.

Fortunately. Because it saves me much work seeking the other copies. In the 105 file it was not classified and there are no expurgations a la 2040 who did censor both questions and answers.

But the covering letter, although stamped SECRET, is disclosed in the 62-109090 file. However, when the questions were there withheld and referred to the CIA, the letter itself was not withheld and with the SECRET stamp and classification not cancelled was provided. (Both are attached. Classified letter and referral slip)

With fulsome praise and expression of appreciation the letter was hand-delivered to the FBI, as the Rosen to DeLoach memo of the same date states. The note Director Hoover added, which can be taken several contradictory ways, may have inspired 2040 to flail his stamps and blacouts. Because it is not entirely legible in the attached 62-109090 copy I repeat it from the original in 105-82555-3204: "Give top priority. The questions certainly would indicate FBI did a poor job of investigation & supervision."

Hoover made this comment on countless occasions. Sometimes he meant it as the Commission's expression of its opinion or as others would interpret the record and quite often he meant it as his personal opinion, particularly with regard to the supervision and "unduly restrictive" FBI interpretations of Commission interest and questions.

As an attachment to this memo 2040 did not withhold the questions. Nor did he classify either the memo or the questions. Until he came to Question 23. He then stamped that page only "SECRET" and obliterated and withheld even the number of the question, to avoid the certain national security disaster, no doubt.

As it appears in the unexpurgated 105 file copy the ~~xxxxx~~ questions asks, "What was the FBI evaluation of confidential information received on November 18, 1963 regarding Oswald's letter to the Soviet Embassy in Washington?"

With the letter published in facsimile by the Commission and the fact of its coverage of the Embassy made public by the FBI 2040's reason is not apparent. There is no justification or need for the withholding and no basis for the national security claim, albeit outside the requirements of the E.O. Besides, the letter was made available by other means.

In a Not Recorded Serial in 62-109090 W.A. Branigan, on 3/27/64, boiled these questions down to six. 2040 withheld part of the answer to one.

His record here is better than that of the one who processed the 105-82555 copy, Serial 3203. There the third of Branigan's questions is ~~is withheld~~ withheld. In the 62-109090 copy it reads, "FBI Analysis of Oswald Following Our Interviews With Him.... Commission desires FBI reaction to the CIA report of August 10, 1963. regarding Oswald's visit to the Soviet Embassy, Mexico City..." (The date is wrong-it was the end of the next month. In Question 23 the date is given correctly, October 10.)

Any basis within the Act for the withholding is not apparent. Moreover, like all else involved, it was within the public domain as well as disclosed in the 62-109090 file - and it was the subject of FBI testimony before the Commission - also published.

The also applies to the Branigan Question 6 withholdings.

Hoover's added note characterizes the questions as "obviously loaded," perhaps to 2040 a signal.

Before returning to the questions and their answers, there are other relevant records in the 105-32555 file.

Branigan's 4/3/64 memo to Sullivan, Serial 3205, also was annotated by Hoover. ~~substantive information withheld~~ Here the classification was by 2040. He apparently ignored Hoover's note below his first withholding on page 2, "I see no reason for being sticky re classification." A note by another cites Legat and provides part of the withheld ~~xxxxxx~~ information. To an unknown degree this is true of the second withholdings; judging from the line and arrow Hoover drew from his note to part of it.

The response to Rankin, dated 4/6/64, is classified but the classifier is eliminated in the FBI's xeroxing of the record.

With all of the information disclosed by the Commission there appears to be no basis for the 1977 classification and withholdings. Neither the letter nor the attachment were classified in 1964. It was the FBI's practice to classify what it believed required classification when it wrote the Commission and with the covering letters added that they were unclassified upon the removal of classified attachments.

The first of the questions withheld as secret although they are also disclosed by the FBI and are also unclassified is No. 8, on page 5. The withheld second part of the answer is within the public domain, unless the FBI lied earlier.

Question 9 is "How and when did the FBI learn of Oswald's move to New Orleans?" The answer is withheld in toto, although it was testified to before the Commission by SA Hosty. As I recall I sent you xeroxes of this testimony and of information relating to the FBI's own disclosures of its interceptions in New York, all public.

Unless the answer to Question 10 is false it also is public, disclosed by both the FBI and the Commission, but here "Secret" and withheld in toto.

The withheld answer to Question 15 (interestingly marked only "C" rather than as stamped, "Secret," does not appear to be subject to classification. And the source

referred to as "confidential" has been disclosed by the FBI. In the disclosure it is apparent that there was no need for confidentiality.

Embarrassment rather than the requirements of national security can explain the withholding and classification of Question 23, which is disclosed<sup>in the 62-109090 file:</sup> "What was the FBI reaction to the CIA report of October 10, regarding Oswald's visit to the Soviet Embassy in Mexico City? Why did the FBI/request additional information of follow-up information by the CIA? What was the FBI evaluation of Oswald in view of the CIA report?" Whether or not the answer was made public by the Commission, and I have no way of knowing whether some may not have been, any proper answer does not appear to be properly subject to classification, particularly not in an historical case.

While all of the answer to Question 26 is withheld at least some is public and was testified to. There appears to be no basis for classification of for any other claim to withhold the answer. <sup>Not</sup> within the Act, anyway.

Question 28 is also withheld in the 62-109090 copy although the context would indicate that there is no basis for it - as well as Commission disclosure. The answer and the question are withheld in the 105-82555 copy. The withheld part of 29 also is public and was testified to unless it is not truthful. The questions were asked by the Commission preparatory to its taking of testimony. And the testimony was published. Besides, both questions are disclosed in the 62-109090 copy. Or in the file from which they are also withheld!

And if none of this were true it would remain true that reasonably segregable information is withheld.