

To Quin Shea from Harold Weisberg re JFK assassination records 8/23/78
Dallas F.O. #100-10461 - withholdings, processing

1 As you can see from the first attachment, which is unidentified but is page
11 of the processing worksheets covering Section 9, some worksheets are virtually
totally unidentified. Some do not even have the Section indicated on the first page
relating to that Section. Some are not dated, and I find the dates relevant. As is the
2 case with the second attachment, some do not even bother to claim any exemption - the
FBI merely withholds by obliteration.

The withholding from #1 raises a question the FBI, apparently perpetually, does
not address: the fact that the information withheld is commonly already public. In
this case, given the number of FD2302s given to the Warren Commission and the FBI,
Department, White House and Department policy of making them all public, the more
reasonable presumption, in the absence of any FBI checking, is that the information
is public rather than that it is not public.

There is also the question in an historical case, if there is permissible with-
holding, is it really necessary and does it violate the Attorney General's policy
statement on FOIA.

Because of the FBI's other method of withholding, to claim "Previously Processed,"
it remain as a practical impossibility to locate the record, if already processed, to
do what checking the withholding may permit.

The Act places an affirmative burden of proof on the FBI, to justify its withholding
by something other than the kinds of indoctrination speeches one might have expected
from the Founding Director. I know of no statutory provision requiring the acceptance
of FBI rhetoric as a substitution for fact. Meanwhile, by its other withholdings, like
of the existing indexes it tried to hide the existence of, the FBI denies itself and
no independent means of checking what is public knowledge. In this and similar cases I
believe it is not impossible for the FBI to determine whether the record was given to
the Commission and whether it is and has been publicly available at the Archives. Dallas
Field Office can also disclose what was published in books.

In cases like this it is my prior experience that the FBI also has indexed what appeared in newspapers and magazines. Its dodge with which it seeks to mislead all is the pretense that the only index is that of FBIHQ Central Files. I have provided you with FBI proof of the existence of Dallas indices. I assure you I have proof of the existence of indices in field offices. I have many records indicating that the FBI can separate what it describes as "public source material," which requires retrieval from published materials.

There appears to be no basis on which the FBI can claim not to be able to determine whether or not any information is within the public domain.

If it elected to process these records at some distance from the card indices, that is a determination for which I have no responsibility. I also have no responsibility for its decision to pretend the indices do not exist. If it had not begun with the determination (once again) not to comply with my request, even the decision to process in Washington would not have denied the Washington processors access to the indices. These indices are within my request. They could and should have been copied and sent to Washington, where they would be available to the FBI's FOIA personnel. (Of course, given good faith, this would have been done before any processing of FBIHQ JFK records and certainly prior to the releases of this past December and January. The cost of the copying of the indices would more than be made up in time and other savings - but immeasurably less withholding would have been possible.)

I have taken this time with the first illustration from these records because I intend this to apply to all similar cases, whether on worksheets or in the underlying records.

2

On three of the four attached pages of the worksheets covering Section 10 there is withholding without claim to any exemption. In one case "source name" is written in. The same claim, "source name," can be made with regard to a very large percentage of the records, particularly the FD302s. There is no automatic exemption to the use of a name and no automatic right to withhold. I remind you again that I recall no single instance of "source name" withholding prior to the 1974 amendments to the Act. This

leads to the belief that the FBI seeks to distort the amendments into a license to withhold what is not properly withheld, as well as the kind of information it had not withheld earlier. This belief is amply conformed by my extensive personal experience.

The withholding claim with regard to Serial 875 cannot be what it appears to be, "b 10." Again I use this as illustration. I believe that at least some of the three pages can be reasonably segregable, if the claim to exemption is justified. If the claim is to b1 I repeat my prior request that all "national security" claims be reviewed in the light of the new executive order.

3 I have added the identification to the worksheets from those covering Section 16. What is applicable to the claim for 7d and b2 with regard to Serial 1458 I repeat from the foregoing. This appears to have some connection with SA Brown, whose name was systematically withheld from the assassination-file records provided earlier. (Yet his and other names were not withheld from several lists of agents, with their home addresses and phone numbers. I was even given a large number of SA signatures. I am not merely pointing out inconsistency. This is arbitrary and capricious, if not even more serious.)

4 I repeat the foregoing with regard to SA Brown again and with regard to Serial
5 2675, from (unidentified) Section 27, also 7d and b2. Also with regard to Serial 2742,
6 where there is total withholding of 3 pp under claim to 7c. (#5); 2751/~~1/16/1977~~/
7,8 and 2753 (both #6, the latter without any exemption claimed); 2945 (#7); 4626, 4627 (#8),
which are among the instances raising questions about whether the FOIA processing
agents have any knowledge of whether there is an actual only source (in this connection
9 I remind you that Director Hoover swore there was no law enforcement purpose); and 9173 (#9),
where it would appear that even the airtel form is not reasonably segregable.

To this point I am raising questions, in the context of the prior appeal, with regard to the worksheets and the underlying records. I have separated these worksheets as well as providing copies of them for the convenience of your staff. This is true also of what follows. With regard to those copies I provide, I am keeping a set with the same identification numbers, those I have added in blue.

10

In the copying and recopying before #10 reached me part of the form was eliminated. The date added by stamp was made invisible and there appears to be no other date on the record. The name after "Requested by" is unclear. I can be Hosty. With the "Subject" given as "O. H. Lee," all of this can become extremely significant to a subject expert. I will provide explanations if you require any. I ask that a member of your staff examine the original record, supervise the copying of it to assure that the best possible copy is provided, and if any of the information, as in the area to which the stamp is added, is discernible but is not picked up in the copying that it be provided by any convenient means.

Perhaps an explanation will help. From the official accounts Lee Harvey Oswald was known as Lee Harvey Oswald and not as O.H. Lee quite some time before the landlady informed the FBI that she had him listed as O.H. Lee. This means that if anyone in the FBI had a check made on O.H. Lee prior to the time the FBI learned of this listing as in the official account there is something very seriously wrong with this official account.

11

I know of no basis for searching under "Leslie Oswald" from any disclosed version of the official account. On this record the name appears to be Hosty. Request relating to as as re #10.

I have separated some Charge Out sheets for the convenience of your staff rather than interspersing them in Serial order. As a rule these refer to records not provided.

12

Serial 2668 is said to have been destroyed. However, this record identifies it as still existing in 44-1639-2927, from which file it could be provided.

13

Serial 4049a indicates that for 13 years the record not provided was not classified at all and then was classified Secret for an indefinite period. In 1969 the FBI's testimony in my C.A. 75-1996 is that the third complete review of all JFK assassination records was then in progress. (I mean the prior appeal and request for review under the new E.O. to apply to all classified records, as I have already stated.)

165

Serial 4901 is one of many illustrations of attachments not being provided.

(Please note that a number of these refer to Legat Mexico City records not provided or indicated as provided from any files. Please also note that in many instances there is no relationship/with any record in the worksheets.)

30 Serial 8023 is one of several of particular interest to me because of the reference to (Norman) Similas, whose photographs the FBI managed never to get, unless it got them clandestinely, and where its records appear to be inadequate. Of course some may be sequestered in the files of the Legat, Ottawa, or elsewhere in DFO files. (Abdo #33)(#34,36)

35 Serial 8172 also refers to other records not provided. (35)

36 If reference is to Canadian or oriental police, the information is public domain- I published it in 1967.

What follows relates to specific Serials. This is not in substitution for the more general and inclusive matters appealed but is intended to provide more specific illustrations of glaring inconsistencies in withholdings and claims to exemption, of unjustifiable withholdings and to illuminate and expand upon the appeals already filed. Please note that I believe some of these illustrations bear on FBI claims in other cases.

The first, for example, relates to the legitimacy of claims to 7E, including in C.A. 78-0249, the request for the worksheets and other records dealing with the JFK FBIHQ releases. Serial 35 is not the first released record to disclose the use of "pretext." 42 (42). But this disclosure does establish inconsistency in the 7E claim.

43 Serial 37 (43) is on the Fair Play for Cuba Committee (FPCC). The FPCC has not existed for going on 15 years. I therefore question the propriety as well as the need to the claims to exemption, particularly to b1. Moreover, with the possible exception of the source, which is not identical with a confidential informer still in place, there is a real question whether any FPCC information is not within the public domain.

44 Serial 71 is incomplete. It also is an important record, which makes it important that the illegible notations be provided in legible form. It is an excerpt from an intercepted letter, from Oswald to USSR officials. For full meaning the relevant records, not here provided, also are necessary.

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Serial 168(?) (45) is provided in connection with the claim to 7C and E in particular and to D. It is the kind of information never withheld in the records available at the National Archives and appears not to be necessary, especially not in an historical case.

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Serial 104(?) (46) refers to both an urgent report and a "security report," not the only reference to a "security report." Neither is identifiable among the records provided.

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Serial 964 (47) is almost entirely withheld under claim to 7D. If this was ever justified I do not believe it is now in an historical case and after about 15 years.

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Serial 1052(?) (48) claims both 7D and b2 for information I believe was published by both the Warren Commission and by me, unless this refers to a symbolled informant.

49

Serial 1059 (49) is provided so that the disclosures in the final paragraph can be compared with the FBI's claims to privacy with regard to other records. This baseless rumor is defamatory and can be hurtful to the survivors of the late Attorney General. This is one of many illustrations of inconsistency with regard to privacy claims, where there is no privacy concern for those not liked by the FBI.

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Serial 1502 (50) refers to an attached list. The list is not attached and is not referred to in the worksheets. The FBI is well aware of my interest in assassination scene photographs. In 1967 I published an entire book on the suppression of them.

51

Serial 1508 refers to other information not provided. It withholds what I believe should not be withheld. It is an informant report yet there is no filing indicated for an informant file. It also discloses a "KENNEDY Assassination" file from which I have received no records, 62-455.

52

Serial 1829 (52) refers to an attachment not provided. So that the importance of this record may be understood, there was a report that MacNeil saw Oswald on the first floor of the building at a time the official account precludes Oswald's presence there.

53

Serial 1729 was destroyed. No copy is provided although this chargeout form states that the original record is in 44-1639-35(?)79.

54

Serial 1832 (54) is one of several references to a film taken by one of a number

of John Martins, a common name in this case. My request of more than a decade ago for a copy of this film has yet to be acknowledged. As I recall my request was accompanied by a check that was cashed. (I do not recall if this is the check that was torn up and then Scotch~~ed~~^{taped} together and cashed, as one of that period was.) Here I also provide a further explanation.

I had an announced press conference prior to my speech at the Univ. ^Minnesota in ^Minneapolis. This was in mid-May 1967. One not known to the reporters present to be a reporter was present. I also made public use of two pictures still not returned to me after I gave them to the FBI, one a picture of a person taken into custody in Dallas after the assassination, the other of a sketch since known to have been forwarded by Legat, Mexico City, in connection with the King assassination. My speech, which dealt with improprieties by investigative and intelligence agencies, was on the subject of the integrity of our basic institutions.

This particular John Martin came up to me after I spoke, told me about the film he had taken and offered it to me. I immediately went to his home with him and thereafter viewed his film. I also borrowed it to have a copy made. However, instead of taking it with me while I was with ^Martin and a student I gave the film to this student for him to have the film copied in ^Minneapolis and returned to ^Martin, with the copy sent to me. This meeting was inside a University room in which there were no others. Then I went to the airport, saw my luggage go down the right chute and on departing the plane at its first stop had no luggage. Several days later it was returned to me, from a city to which that airline does not go and in very bad condition. My suitcase had been ransacked, with all paper taken. A new typewriter was thoroughly ruined, without a mark being made on the case. A new tape recorder was fixed so it would not record. It was unreparable.

The ^Martin footage is of Oswald being arrested in New Orleans. There is another known such amateur film, taken by a young man from Seattle named Doyle. My request for the Doyle film also is still ignored by the FBI. Neither was provided to the Commission by the FBI. It never told this Commission about John ^Martin or his film. Martin told me that what the FBI returned was not his original film but an edited version. This report

of alleged FBI editing of footage of Oswald in New Orleans is duplicated by two other such reports, each by more than one person.

Oswald, of whose connections with federal agencies there have been persisting rumors, precipitated a fracas with one Carlos Bringuier, since disclosed as in contact with both the CIA and FBI. The Martin and Doyle films are both of the arrest and the principals of the fracas.

The FBI had authenticated reports of another person with Oswald in his New Orleans activities and never identified by the FBI. I have a number of such reports also, from quite a few persons who claimed first-person knowledge.

It is what I believe is a not unreasonable suspicion that this person or other such persons may be in the movie film the FBI still withholds from me after a decade. (Appealed.)

Other Martin reports disclose the FBI opinion that the Martin film was valueless. This is consistent with what is explicit in some FBI reports. The only film it regarded as worthwhile would have shown Oswald in the window with a rifle. (As one result of this FBI attitude five reels of TV film of the search of the building from which the crime is said to have been committed have disappeared and were never seen by the Commission. The FBI simply put off going for them, for months. I once had a copy of excerpts from this film. It was stolen.)

55a
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Serial 1978 states that it encloses 30 copies of an XE insert of an interview with Mrs. Hal Davison of Atlanta. Her name was in Oswald's addressbook. It had been given to Oswald by her son, the medical officer of the US Embassy in Moscow, to which Oswald allegedly reported his dedication and defection to the USSR. The son was charged by the USSR in the Penkovsky case. The insert is not attached here.

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No Serial numbers are provided for these two similar but not identical routing slips. In both cases the attachments are not provided.

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Serials 2799 and one the number of which is illegible may or may not relate to the same matter. Obliterations make certainty impossible. The FBI's records (available, that is) are uninformative, incomplete and do not disclose that such reports had been published earlier.

These records do not include information contained in earlier records when it is relevant.

The FBI has not provided all relevant records. (See 62

61 Serial 2945 (61) appears to relate to West Virginia investigations which are public knowledge and to a published picture. There appears to be neither legitimacy nor need for the claimed concern for privacy.

62 This illegibly/Serial (re 60) does not have the attached interview of Hudkins.
(also 3560,1)

63 Serial 3559/is deceptive and self-serving. The exemption claimed is not indicated.

McKenzie was attorney for Marina Oswald, arranged through Martin, who the Secret Service arranged to hide her out, which led to his sharing her bed and becoming her business manager. The FBI refers to McKenzie only as attorney for Robert Oswald, who was cut into the deal (10% of gross on Marina) to control her only. While the nature of the "operation" is obliterated, if it refers to an alleged sterilization the FBI has already made that public and it is in court records. Records referred to not provided.

64 Serial 3572(?) appears to be related. The Willard Hotel room was bugged, the content is not and has not been secret, much as it relates to privacy. ("Protective service.")
(Serial 3576 is relevant.)

65 Serial 3725 is attached to add to the inconsistency of claims to 7B, if not the flippancy and intended harassment of requesters and courts. 3730 gives the names of SAs, which adds to the prior proof of both inconsistency and intended harassment in other withholdings and false representations on this to the courts by the FBI through the "department."

66 Obliteration in 3767, which appears to include what could be reasonably segregable, makes it unclear whether this relates to 63 above, as other content indicates. I believe the privacy claim is unjustified and that if the intent is to hide what the FBI did, that is not properly 7C material. 67, Serial 3769, leads to the belief what is obliterated relates to surveillance of Marina Oswald. All results of such surveillance have not been provided. (For that matter, the FBI pretends it has no Marina file and has not written me that it will be provided.) This Serial states that daily summaries were to have been teletyped. There were other forms of surveillance not here indicated.

All information required relating to "the NIXON matter," a fabrication that Oswald would have killed him if Marina had not locked Oswald in the bathroom (sic), has not been provided. That the Commission, knowing better, still played that nonsense straight is not within any exemption of which I know, even in FBI interpretation. Nothing relating to the phone reports has been provided.

This holds further evidence of the inconsistency in withholding SA names. So does
68 Serial 3844, attached as 68.

69 Serial 3863 refers to an administrative insert and other records/relating to what
not provided
would be done over this Melvin Belli report that Oswald and Ruby were both FBI in-
formants. Note that there is no 7D claim re sources, apparently only sources. Again,
FBI inconsistency.

70 Serials 3928 and 3965 are several with the most elliptical references to what the
FBI still withholds, information provided by Dallas County prisoners who had the
most unobstructed view of the assassination and the scene. (None of this in the Commission's
work.) I appealed these denials re the assassination files.

72 Serial 3985(?) also in Marina surveillance, refers to other records not provided.
73 73, on which no file designation can be discerned, is on the same general subject. I
question the withholdings, including at least part of the obliterated file number. If
it begins with a designation for informant or electronic surveillance, that should not
be withheld.

74 A Serial whose number cannot be made out withholds information related to
Oswald's address book, which is entirely public-published in facsimile by the Commission.

75 Serial 4092 refers to attachments not attached or provided or referred to at this
point in the worksheets. With regard to Silver and (deceased) Jones what is not generally
known but is public domain is that they made negative identification of Oswald as the
one who received the flyer they printed and he distributed.

76,77,78, Serials ????, 4339, 4354, 5611(?), 5646 and 5580 reflect an extensive domestic intel-
79,80,81 ligence operation. Whatever one thinks of Mark Lane, and I doubt the FBI has a more
critical opinion, ^{than do,} he was not within any law-enforcement or national security classification

in his criticism of the Commission and the FBI. The FBI might not have approved the National Guardian. I cancelled my subscription over disagreement with its politics. But any publication enjoys a Constitutional immunity. I challenge all claims to exemption on these and other bases. The file numbers are not "solely" an FBI matter. Reports on public meetings are not subject to "only source" claims, especially not when they are covered by the press. (There is inconsistency in the claim to b2 in that the identical material was provided on similar reports from ^{an} other field office. There is internal inconsistency at this point in the 7C claim, to withhold the names of persons at some meetings and not those of persons at other meetings.)

82 Serial 4869 withholds under claim of "Refer CIA" and an unclear claim that appears to be b2. If the latter I dispute that what is withheld is "solely" of interest to the FBI. With regard to the material referred to the CIA, whatever it may be it is not a CIA record. The time for response to a referral with an case in court, by any reasonable standard, has long since elapsed. I therefore ask for the production of the withheld information. I have CIA requests that have not been met in seven years and ought not be expected to wait that long. Or as long as two years, what happened in C.A. 75-1996, with what the FBI referred to the CIA.

The CIA withholding clearly refers to Isaac Don Levine. His connection with the Commission CIA was disclosed in an executive session transcript I obtained, with Dulles as the discloser. His relations with Marina are quite public, as is Commission McCloy's statement that he was preparing Marina's testimony to the Commission. Or, whatever the supposed secret the processors saw, there is little chance it is not public domain. (Levine has written extensively about this, too.)

83 Serial 4876 refers to information not provided, including the originals of the statements referred to. (Where I obtained one in the past it reflected FBI error the witness had to correct.)

84 The Serial is illegible. The record withhold information to have been provided to the Commission. Not indicated here, the claim is b1. I contest and appeal this for the information or the signed SA statements.

85

This worksheet reflects/withholding related to my numbers 76-81 above, Lane and National Guardian. A total of 7 of the 10 pages of Serial 5011 are withheld under claim to b1, b2 and b&D.

86

The withholdings in the documents attached to what appears to be # 4966 may be what the FBI would like to keep secret but appears to be information it should have provided to the Commission. Some is not secret, except perhaps to FOIA processors, if what remains of the hand note on page 1 after use of the xerox is a guide. (The entire note should be provided.) There are no such allegations that were not known because they were public. It appears that even Question 29 is withheld, the question of the Commission indicated as "Secret."

Serial 5487 discloses further inconsistency in the claim to 7E, not made her for tapping and bugging or Marina Oswald. The claim to 7C, if it relates to her relationship with Martin, has already been disclosed. Other affairs are reported. With regard to 5771, the withholding is total, except for her name.

Serial 6505 to Shirley Martin, then Mrs. Mark Martin, with no copy indicated to Dallas and with an espionage file indicated for New York. There have been leaks to the press involving the Martins in Hawaii but there appears to be no basis for either the totality of the withholding or classifying her as an espionage case. The withholdings are so excessive even her name does not appear in the few words not obliterated from both pages. She was rather forward in ~~her~~ disagreements with the official account of ~~the~~ the crime and she was publicly associated with Mark Lane.

90

If after all this time the source has to be kept secret I doubt this can apply to the information or the report of the "thorough, searching interview" of Marina's lawyer, whose financial deals involving her are well known and were in fact the subject of a Secret Service ~~investigation~~ investigation that was never withheld.

91

Serial 6999 (6996 relevant) refers to records and information not provided, with considerable ellipsis. Bringuier was associated with the extreme of the political right and was making appearances under the auspices of Billy James Argis. He was also a source for the FBI and CIA, publicly known, records available.

92

Serial 8020 refers to earlier records not provided. In this connection there remains other withholding relating to Sylvia Odie, FBI work not reported to the Warren Commission. (She reported the visit of three men, one "Leon Oswald," and a forecast of the JFK assassination. The FBI did nothing for months, from the existing records.)

93

Serial 8116, related to above, refers to what has not been provided, including photos.

94

Serial 8117 also refers to material not provided, although by the date of this record the Warren Report was already in page proof and the presses were about to roll. I am aware of one signed statement obtained by the FBI. It was incorrect and Baker corrected what the agent wrote out for him. This statement also contradicts earlier statements and Baker's testimony.

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96

Serial 9304 is the ^{first} instance I recall in all these Oswald files in which an FBI name is withheld. In this instance the name of the person handling the inventories, about which I have already raised questions, is relevant and there is no legitimate privacy question. This withholding is inconsistent with the processing of the other records in the Oswald file. This second instance of the withholding of an FBI name is 9349. This also is inconsistent, including with the making of all names available in the assassination file. The record refers to other records that are not provided.

If a time comes when you have no need for these attachments I would give them to another who has interest in the subject matter.

97

In the mail of 8/24/78 I received the enclosed letter from Mr. McCreight also dated 8/24/78. While it discloses the providing of some records (not yet checked) from a file existence of which had not been disclosed earlier, it misrepresents in alleging full compliance and in hiding the existence of other relevant records. This is a protective appeal. I believe I have in fact already appealed these denials and provided proof of the existence of the remaining withheld Dallas records. The number of the file is not in the McCreight letter. It appears to be 62-3588, with a total of 189 Serials, not all here, some "previously processed." With the subject "President's Commission of

Assassination"(sic) I'm surprised that the earliest record appears to be dated just prior to the end of the Commission's life, most are dated after the Commission no longer had legal existence, and the dates run to about two years after there was no more Commission. I note this because the title is not identical with that of the FBIHQ file, as well as because there have to have been relevant records of date earlier than July 1964. (I noted only one record that early.)