

December 8, 1970

Dear Harold,

I received your draft of the Ferrie documents complaint today. It was mailed by Jim Lezar on November 17, but third class - for which category it is not qualified. This letter will give you my first reactions. I am enclosing an extra copy, for your lawyer in this matter, and a copy of the draft as it was sent me. I have not yet gone over all my Ferrie material to see what else I might be able to add. I would like to find out the status of this suit before I put too much time in. It looks as if some very minor, mostly stylistic changes were made on this draft, and then it was retyped. I would hope the next draft can be sent to me, and to Jim Schmitt, before it becomes fixed in form or content. You were frank with me on the melon business, so I will not disguise my feeling that a great deal of your very good work on this subject will be wasted or inefficiently used unless major revisions are made in this complaint.

A few general comments first: I gather this complaint has two purposes. One is to present the Ferrie material in a form that will turn on newsmen and perhaps the attorneys who respond to it. The other is to identify specific material that you want, show that you have exhausted your administrative remedies, and present arguments for disclosure. These two purposes overlap but far from completely. I think that you should separate them enough so that the arguable nature of the background material on Ferrie does not weaken your legal case. For the more general audience, one of the problems is that the form of the complaint makes it very hard to follow the main threads of the argument.

One problem seems to be the sequential numbering of paragraphs. Is this required in exactly this form? If not, it would be much better if you could use, say, subdivisions like I.A.1.c. Then you could provide an outline, and also include general statements about what you intend to show, etc. You would still be able to number each paragraph, for ease in response - I assume that is the reason for the numbering.

For the purposes of the suit, I gather it is not necessary to prove all your factual assertions. If the defendant challenges them, you can bring up the evidence in rebuttal, right? But for newsmen, I think there are instances where more exhibits are called for.

Going through the numbered items of the complaint:

(3) I think the main point you want to make for the suit is that the FBI reports are withheld at the Archives at the request of the JD. That they were an arm or part of the Commission is arguable and not necessary; that is not your reason for citing them as defendant.

(4) Is your point that there was a probable connection between DWF and LHO? If so, I think this would be an appropriate place to quote the synopsis of CD 75, which refers to LHO's "contacts" with DWF. As you know, I would ordinarily suggest that "alleged" was omitted by mistake, but the FBI was usually reasonably careful with such things, and since DWF and DeBrueys were involved I would not give them the benefit of the doubt. Let them tell you they meant "alleged contacts."

If you use the CAP link, be careful about N.O. units and be prepared to document whatever allegation you make.

Is the name of the group CAP Cadets, or just CAP?

(5) I suggest a specific page reference.

(8-11) I understand this but it is not clear, especially the references to the "character" of the evidence.

(14) Suggest throwing one in as an exhibit, with deletions.

(15) Is this Guy Johnson? Have you asked the Archives to check the withheld portion of the ONI file? Is this item relevant?

(18)-(19) Very unclear.

(20) 8H31 is not "immediately" after 8H29.

(21) If anything, formerly classified TOP SECRET - but all the transcripts were so classified, so why mention it.

(22) The deletion was suggested by Pollak in a memo of 6/18/64 to Rankin; I have a copy from Entry 27, and you sent me a copy of page 2 of the attachment, where the Ferrie deletion, and others, are suggested. Are you sure the reference in your item (21) is to the printer's copy of the transcript?

(23) Awkward.

(24) I don't understand. What in particular was perjurious? You should specify, I think.

(26) The introduction is not clear. I gather you are trying to make all this background material somehow relevant to the suit. I don't see it at all.

Marcello: as you know, I completely disagree with you on the significance of this report. Let me give you my idea of what the "answer" should be: The cited report was not prepared or intended as a full report on the activities of SA Regis Kennedy on 11/22. It was prepared in the course of the investigation of an allegation involving Vincent Marcello; that allegation is set forth on the page preceding the cited one in CD XXXX. The report established Marcello's presence out of Dallas on November 22. It bears no relation to the Ferrie matter.

As I have suggested earlier, there may be a similar report establishing that Ferrie was in N.O. I guess it might be CD 75, page 287. (Isn't Charles Graham, who is indexed to that page, an FBI agent? That's just a guess - it rings a bell.)

Did the government say Garrison had DWF as the getaway pilot? I thought that was Ferrie's idea. Can you back this up?

Page 5, middle: you say the original of the Ferrie statement was "denied" the WC. Here and elsewhere, I disagree with your use of "denied" and "withheld." To me that means something was refused when asked for - as material is withheld from us now. What the FBI did to the Commission is more subtle, and you are setting up a straw man. The JD can honestly deny that they ever turned down a request from the WC, and the point that they did not give the material to the WC will be lost. Why not say "did not give" or "did not volunteer" when that is what you mean?

Page 7, 1st line - this is Quiroga? Can you prove it?

Page 7, last line - I assume you will attach only part of CE 3120.

Page 7a, line 5 - the WC learned this from the press? Again, I would avoid "withhold" here.

Page 7a, line -4: nothing fictitious about the publicity.

Page 8, line 2 - the purpose (superficial) of the Bartes interview is quite clear: Newman mentioned Arcacha and the CRC when he was interviewed (CD 75, pages 680-1), so on the next page Bartes is cited to identify Arcacha and the CRC. If you don't know the game they are playing, it looks quite reasonable.

Page 8, line 8 - what is the reference to page 29 added?

Page 8-9: this stuff about the addresses is not without interest, indeed, but seems pretty far from relevant. The right-wingers whose names you drop are certainly irrelevant.

Page 10, line 3: Arcacha was named- why was that crossed out?

(27). You are referring to Gun's book, no? Specify. Has this been withheld from you - i.e. have you asked for it specifically? Same question for Exhibits 17 and 18. Is LHO pictured? If not, what is the relevance, since there is no question about Ferrie's ~~connection~~ connection with the CAP. If these have not been specifically withheld from you, I question the basis for the middle paragraph on that page. Couldn't you make the same point by noting that some of the pages on the list to be withheld are published? (I am about to file a DJ-118 for some of the published or available withheld pages.)

Before I forget - I did give you CD 75, page 168, didn't I. It's an interview with John Murrett; ~~the~~ the only thing he recalled about LHO's stay in N.O. in the 1950's was that "on one occasion Lee's mother telephoned his house several times during an evening when Lee apparently was attending a party of the CAP. Lee's mother was worried and, he understands, Lee did not arrive home until about 2:00 A.M." (Wonder if Mama O. called the cops? Did anyone check the records that far back?)

5
spinning
74
117

(30)-(31). I would have to side with the JD. Obviously they did not volunteer to the WC their entire file on Ferrie (or on all of the other people who came up peripherally in the investigation.) But when they say they did not withhold anything, they are obviously using that word in the sense I find proper. Item 16 doesn't relate to Ferrie in any direct way, and # 17-18 don't really relate to the assassination. If I were the judge I would not be impressed by your argument.

I haven't really checked out the CAP photo matter. Please compare the photo in Gun's book with that on page 108 of Curry's book. The latter was supposedly found in Oswald's wallet; it is described as showing him in a Marine uniform. (CE 1986) To me the caps look identical, although the shirt and tie are different. Could the latter also be CAP? It is odd that - as far as I know - it is not reproduced in the 26 volumes - but I'm not certain. When CE 1986 was written, the DPD gave the FBI only a photo of this photo. Who has the original? I haven't checked this yet. I doubt it the back has anything on it - "with love, Dave" for example - but it should be looked at.

(35) Okay only if your request specifically included the Gun & other photos.

(46) This is one of your key arguments, I gather. I would go into more detail, perhaps connecting up what you know with the names on the withheld pages. This worked for me with the Quiroga interview.

Does the Brener book really have any details of this nature? I recall none.

(47-48) It really threw me to have these in two separately numbered paragraphs. The numbering really has to be changed, I think.

Page 15, line -3; whoever added "Jack Ruby" may not be aware that negative references are also indexed. Presumably someone was asked if he knew Ruby; this was routinely done. No association should be inferred.

I hope exhibit 20 lists the names by page; otherwise it will not be of much interest to (say) the press. Could you add your speculation as to what the subjects might be - at least identify as many names as possible?

Before you file a complaint using this kind of information from the indexes, someone should work on the name index in Inventory Entry 7. That covers several short CD's with no internal index - e.g. CD 47, which has Vallee stuff. I sent Bob Smith instructions for getting all the useful info from this in a day or two of work. Let's do this before they catch on and reclassify it!

(51) Not "obvious" unless you go into more detail.

In this part of the complaint I think you should refer to the Guidelines, which are less restrictive than the provisions of 5 USC 552. Suggest that if they did not deliberately withhold relevant material from the Commission, they should be willing to apply the same restrictions as to the material they did forward.

Page 17- I would really like to see the "Wherefore plaintiff prays" part. I could make more suggestions if I knew what you were asking for. I gather you want everything on Ferrie. I think you should also specify a lesser request, such as the specific pages from CD 75.

Before I forget - you should be able to use CD 405, page 22, last para. This proves that DWF mentioned McKibben in a previous interview, which I don't think we have. So, you could ask for that specifically.

I have really rushed through this; I want to get it to you and find out what the status of the suit is before I spend too much more time on specific comments. I expect to file the 3 DJ-118's I mentioned in my last letter shortly; I will send you copies.

Sincerely,

Paul