

JFK assassination records appeals

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Inconsistency, arbitrariness and capriciousness in claiming "national security" and in classifications *worksheets (CA 78-0249)*

Failure to abide by classification regulations in processing records for disclosure. *Withholding reasonably segregable*

The persisting question of classification of the public domain, especially by # 2040 Rosenko, etc., still again and classification of disclosed Commission information *Rosenko request*

Attached are two Not Recorded Serials from 62-109060, both relating to a 1974 review of classified Warren Commission records. Each is recorded in 105-82555.

My attention was drawn to the Secret stamp on the letter to Bassett memo of 9/17/74 because it was not classified when it was generated and does not bear the required notation and stamp recording who later classified it, etc.

In checking the 105 copy I find that it is classified only Confidential. And in checking the worksheet for the attached copy I find no claim to exemption on it.

While the second attached record does have the required stamp, attributed to 2040, who has a record of classifying almost anything without regard to whether or not it is public domain, again the worksheets hold no claim to exemption for it.

Further comparison shows that the final withholding on the attached version appears to be attributed to the Secret classification whereas what is withheld is merely the initials of an FBI official, hardly the kind of information that could endanger the nation's security now that it is disclosed on the other version. (We have survived almost two years.)

On both versions the withholding of the reasonably segregable, assuming any classification at all is justified, extends to the identification of the second document being reviewed for release. Somehow we managed to survive its disclosure under "Action."

But the second related record, that to the Department, refers to the grade of Confidential only in the underlying record, which raises questions about how it got upgraded in the memo referring to it. Or one copy of it.

Neither record in any version identifies the underlying record as what it is, Commission # 651. I published some of its content in 1975.

In the 105 files it is 2463, of 38 pages according to the worksheet, of which

it states that 23 only are disclosed. It is not possible to determine what exemptions are claimed, if any, for the 15 withheld pages (some of which certainly hold reasonably segregable material.) because these pages are not identified and notation of the (b)(7)(E) claim, which can't apply to any of what is available, makes this more confusing, especially because it is stricken through.

No claim to exemption is made for the Cover ²page 1, all of the substance of which is withheld, but the worksheet notes (7)(D) for page ⁶8, which has four withholdings.

The claim to "national security" appears to extend to a mention that includes Mark Lane on the ~~cover~~ first page. ((b)(1) for 1-3, 6 and 7 plus an illegible ^{pages} ~~claim~~ for which (7)(C) is claimed.)

Now it happens that some time ago I received some of these pages from the Archives, in addition to other pages on Nosenko. When I did I noticed they were not typical of Commission records and asked the Archives if these were pages provided by the FBI. This file, the one from which I have taken what I will enclose, does not reflect any response. I believe that what I was provided are copies of the pages referred to in the first two records identified above.

Whether or not this is true what it means, as will be seen, is that after disclosure by the Archives the FBI classified and withheld information that was disclosed as Commission records, a matter you have disputed.

The name withheld in both versions in the first sentence of the synopsis is Mendez. It is disclosed elsewhere and is not subject to withholding under historical case of 5/5/77 standards. Next the 1974 FBI processing leaves in a few words its 1977 processing withheld, reversing this in the next line to withhold Lane's name, which is not withheld in the 1977 copy. It was not properly subject to withholding.

The last eight lines on this first ^{file} ~~page~~ page relate to Nosenko. All of the content was within the public domain two years earlier than the processing of the general releases as part of the disclosed Commission records. I wrote about it in 1975, CBS broadcast it on the evening news, etc.

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In the 1977 version expurgation of the table of contents extends to the public domain, an FBI practice on which 2040 does not hold a monopoly. In addition to the Mendez matter, which is first, and the Rosenberg matter, which is last, it is done with B to hide the 1977 withholding of what was disclosed in 1974, as will be seen. (All of page 7 is withheld in the 1977 compliance with the 5/5/77 and historical case standards whereas this was not true before both the policy statement and the historical case determination. As Marina Oswald once said the Warren Commission, "That is the FBI for you.")

In 1977 the FBI decided to disclose what it withheld in 1974, Miss Mendez' address, 3446 Connecticut Avenue, N.W. (page 4) To atone for this unseemly liberality it then withheld what it disclosed in 1974 lower on the page. However, in relenting and disclosing the division of the Pan American Union in which she worked under the one whose name and pen name are withheld, these withholdings become pointless to one who wants to learn, as I do not. It is made easier by disclosure of his earlier career in such organizations. It does not protect privacy.

Inconsistencies between the two versions of page 5 include disclosure and withholding of the Pan American Union, another international organization for whom the person Miss Mendez clearly did not like worked, the identification of a publication for which he became responsible. Some of this is comprehensible because he was called a communist, clearly by those whose views and opinions should be suspect, rather than dealt with at this great length. This farout woman tried to connect the unnamed person with both Ruby and Oswald. But "She had no definite basis for this feeling," which explains the great FBI effort reflected.

Other inconsistencies are obvious with examination of the bottom of the pages. One withholds the names of those authentic "subversives" the unnamed one knew and the fact that he had done translations for the State Department. Subversives like Walter Reuther, Arthur Schlesinger and Theodore Borensen. "Willie Brandt" is not withheld on the next page.)

In 1974 the FBI withheld the job for which this man applied and was investigated (page 6) but evened the scales by withholding the entire 3rd paragraph, almost all of

which it disclosed in 1974. (The worksheet makes no claim to exemption for pages 4 or 5.)

The identification of a former ~~employer~~, a CIA foundation, was withheld in 1974. Here the privacy claim was extended in 1974 to include the location of the headquarters of the Kaplan foundation, New York, and the street on which it had a center in Mexico City.

All of page 7, most of which was disclosed in 1974, was withheld in 1977, beginning with the heading "INFORMATION RE (OBLITERATED) CONTACT WITH (OBLITERATED)."

While the 1974 disclosures prove that after the Act was amended to require disclosure of the reasonably segregable the FBI withheld what it had found reasonably segregable prior to the amending of the Act. (Perhaps both withholdings include Lane.)

There are no 1977 withholdings on page 12 but there are 13 from 1974. "WF 1-3" is withheld nine times and what appears to be a "U" after four paragraphs is withheld by obliteration four times. (This deals with the source and the fact of Marina Oswald and her manager managing to sleep together while she was in Secret Service/protective custody.) The same situation applies to pages 14, ~~and~~ 16 and 19.

While such withholdings as of "WF 1-3" are uncommon - offhand I don't recall another case in which I have proof - that the FBI did this in 1974, after the Act was amended, reflects its mindset against compliance and determination to harass requesters.

With regard to those many persons, often extremist Cubans, who fabricated countless Oswald association stories and ran off of the FBI what its first law is to cover, I do not believe they are entitled to privacy protection in historical cases and the 5/5/77 policy states this. A large part of the FBI's major wastes of time and effort - and much public money - was wasted by these people. They were a serious interference in the investigation and they launched persisting disinformations which still misled and deceive.

Pages 22-35, withheld in 1977, are disclosed and marked "unclassified" in 1974!

Page 22 identified what follows as the FBI's interviews with Nosenko.

Where the worksheet obliterates what appears to be Nosenko's name and appears to make b1 claim for the FD302s all three FD302 were disclosed in 1974, all unclassified.

I am not making all the extra copies this would require but I am telling you that there was never any classification mark on any page and after ^{RS}/view "U" was added in 1974. And remember, this is the copy I obtained ~~from~~ from the Archives, based on which I published in 1975. A cover page identifying these pages as Commission Document 651 was added. If you go back to the worksheet, which I do provide, you will see that the FBI correctly identified "WCD # 651" but added "Report marked Confidential." But no such classification existed and each and every page I have is marked "U" from top to bottom.

This copy I obtained from the Archives is not a Commission original. It was provided later by the FBI because it contains characteristic FBI markings that never appeared on the copies it provided to the Commission.

I can be positive about this because I have the Commission's original copy from the Archives also and it does not have these FBI markings. It also had no classification.

And while I do not know the exact date on which they were first available I do know that I obtained two other FBI Nosenko records from the Archives in early 1975.

This is to say that in the 1977 processing the FBI knew not only that the information it then withheld and called "national security" had in fact been disclosed much earlier and it even knew the identification of the disclosed record at the Archives.

More deliberate violation of the Act is not easily imagined. More ~~at~~ deliberate falsification of "national security" claim likewise. Besides which it was all in the public domain through my writing and that of at least one other, which received much more extensive attention and distribution - a book assisted by the FBI, which likes the publisher, Readers Digest. Dan Schorr had former DCI John McCone on camera with the material in 1975.

All the foregoing applies to any "previously processed" filed office records and to Department affidavits provided in my C.A. 78-0249 attesting to the legitimacy of the "national security" claims on the worksheets.

Meanwhile, the FBI and you continue to ignore my Nosenko request and appeals, which are now older than the claimed backlog.

One of the crazier of the Cuban extremists referred to above is Dr. Emilio Nunez Portuondo and one of the more insidious irrationalities the FBI chased is his. I wrote and published about those capers beginning in 1967. They are not secret and most of the details of them and the investigations are not. (I do not mean to suggest that he was involved in one only.)

An entire paragraph is withheld in attached Dallas 89-43-3646. From the third paragraph it appears that his name should be reasonably segregable, if in fact any of what is withheld qualifies for withholding under the Act, the 5/5/77 policy and the historical case determination.

This political weirdo, later a leader and organizer of Cuban-Americans for Nixon-Agnew (and decorated by them for it), was more respected because he had been a Batista official, I think ambassador to the UN.

While I do not know what information is withheld here I do assure that the records provided abound in withholdings relating to such people and their wild stories that did impede the investigation, had no basis, sometimes were intended to start World War III to "liberate" Cuba (meaning they'd take over again) and ought not warrant protection in this kind of case. They made themselves public figures by their fabrications, imaginings and acts. They are among the least conscionable exploiters of the great tragedy, howeverx they may regard themselves. The did a great national disservice.