

78-0322 Records not provided

JFK assassination records appeals

Harold Weisberg 3/22/80

Marina Oswald records - FBIHQ

"JuneMail files for the assassination of President Kennedy and Lee Harvey Oswald"

Dallas records not provided

Missing referrals (after almost three years)

Improper claims to exemption

Withholding by file shifting

Refusal to search known places for existing, pertinent records

FBIHQ records not provided

False FBI representations

Under date of 3/18/80 I received from Mr. Flanders (initials MW)"303 pages of material from the file pertaining to Marina Oswald." This does not state that it is all "material" from the FBIHQ files on Marina Oswald. Also, June records as captioned above. In fact these are not all "JUNE MAIL," are not all that pertains to the assassination and is filed under "JUNE", and carefully omits the embarrassing interceptions of Marina's personal conversations, a matter about which, if you accept the bluntness, the FBI lied deliberately to the Attorney General. In prior appeals I have provided samples of these "national security" surveillances of the details of her sex life and fantasies.

These records were not provided in the 1977 and 1978 general releases and were not provided in C.A. 78-0322. When I discovered this I wrote the FBI, as its attached letter of the 18th states, on April 27 of last year. Why it continued to withhold for almost a year I cannot say but I can say that the worksheets for what I have just received are dated October 1978. This would seem to indicate that they were processed in response to another request and once again that the FBI did not provide all such records as provided to others. This is contrary to its assurances to you. (Only the first worksheet is dated.)

The (b) exemptions claimed are 1,2,3 and 7 C,D and E. Of these, whether or not others are justifiable, those to 2 and 7D and E are not. I believe others are not. The part of 5 USC for which the (b)(3) claim is asserted is not stated. The allegedly secret techniques and procedures for which the E claim is asserted are not secret and their "future effectiveness" cannot be impaired by disclosure. However, the FBI can be embarrassed by it.

Because it is not possible for me to follow my past practise of making copies for you, too many records being involved, I attach only a few and I address the various matters captioned by section, which will enable your staff to examine the FBI's copies page by page.

The "JUNE" sections may appear to be dated 2/27/80 but they are not, as examination of Section 1 of the 105-126032 records reflects. The JUNE sections are not numbered.

One of these Marina Oswald JUNE sections consists entirely of Not Recorded serials from the 105-82555 (Lee Harvey Oswald) file. Of these all but one page are represented as previously processed. (This does NOT mean provided.) That one page, attached, is the FBI's request of the AG for permission to wiretap. The statement based on which permission was granted, "We have received a request from the President's Commission ... for a technical surveillance regarding Marina Oswald," is false, as subsequent records establish.

Please note that this record bears a stamp SPEC MAIL RM, which is more legible on other records. There has been no search of the records of the special mail room in either JJK or King cases.

Please note also that this record was declassified long ago, but after being withheld from me in the 105-82555 file, without being provided when declassified. If this record even met proper classification standards, it has not since December 1977, when the fact of the surveillance was disclosed.

For your information, this request was for a tap on the telephone of Declan and Katya Ford, who had taken Marina Oswald in until she established her own home, only a few days after this request was made. It seems apparent, therefore, that the Fords also had their privacy intruded upon. Mrs. Ford was a Russian emigre.

I checked the last two of the listed "previously processed" records, serials 5585 and 5587. Neither was provided in the 105-82555 file. Instead there are "Permanent Charge Out" forms from which the words "JUNE MAIL" were obliterated in the processing. *(Attached)* This means that the Records Branch still has and withheld the records. They are in what has not been searched, "the Special File Room," as the form states.

Another Marina Oswald "JUNE MAIL" section<sup>1</sup> consists of two serials from the 62-109060 FBIHQ assassination file. (Worksheet attached.) Of the second, 4240, the entire "NY TEL TO DIR" was withheld. From the attachments it is obvious that there is reasonably segregable matter. What remains of the first attachment proves this by its reference to the now defunct Ramparts magazine, as does the reference to Bishop Pike. It is apparent that there was some kind of operation pertaining to the publication of an article in Ramparts that I believe was based on some articles Penn Jones ran in his small Texas weekly and included in a book he titled "Forgive My Grief." While (b)(1) claim is made, this is hardly a "national security" matter.

However, inclusion in the JUNE designation is provocative, to say the least, particularly when filed in the assassination file and dated two years and a day after the Commission's life ended with the publication of its report.

The largest of these small JUNE MAIL sections is from the 105-82555 file, titled "Lee Harvey Oswald." (Please note he was killed on 11/24/63 and that while these records are dated 1964-7 they include references to records of the 1970s.)

Only one of the records is indicated as entirely withheld. It is Serial 2470, a Sullivan to Belmont memo of 2/27/64, or the approximate time of the electronic surveillance of Marina. She was also bugged, and no authorization for this was requested. If the (b)(1) claim is justified, I believe that some information is reasonably segregable. Embarrassment to the FBI appears to be a possible explanation of total withholding.

The first record provided is 2361. Its first sentence discloses that Marina was bugged. It also held a note referring to the Special Mail Room.

The second record is 2362. Its second sentence confirms the bugging. The third is self-serving and deceptive because the Commission did not request either surveillance, as will become clear. The rest establishes that the surveillances were on tape and that FBIHQ ordered the tapes to be preserved in Dallas. This was not included in the inventory provided from Dallas records, which is to say in C.A. 78-0322 Again, Special Mail Room.

The third record is the 3/2/64 ME FD-142 filed by Dallas after the fact, for on 3/2/64 the Attorney General had already approved and Dallas had installed the phone tap. This

recommendation, like the other records, not ~~xxx~~ provided in C.A. 78-0322, also includes the bugging, which then is ~~xxx~~ out but was done. To withhold the file and "informant" numbers claims to (b)(2) and (7)(D) are made, and for the disclosed "Location where monitoring plant is to be maintained," the claim is (b)(1).

Exemption (b)(2) is "solely" applicable to personnel, "the language of the Act being "related solely to the internal personnel rules and practices of an agency." Surveillance is not a personnel matter and the file ~~xxx~~ identifications also are not. Nor is the number given to this "source." (7)(D) requires that there be disclosure "of the identity of a confidential source," not applicable in this case. The only source provision also is not because the exemption requires a live, human source as well as a criminal investigation, which this was not.

The existence of unauthorized bugging also is confirmed here.

Cost and manpower involved is withheld under "national security" claim! Come on, now, surely there is something for which the FBI won't make a (b)(1) claim. Anyway, manpower is disclosed elsewhere.

However, there is truth in 14: ~~ag~~ outside agency made any such request, even though the FBI told the AG that the Warren Commission did. (More on this below.)

I believe the (b)(1) claim for withholding all of "remarks" is spurious, based on what has been disclosed.

This record is supposed to have an enclosure, from the stamp. It is not provided.

A second and not identical copy also is provided. Both were submitted with 2363, which captions the physical surveillance of Marina as a JUNE matter also. Here the confusion created by the withholding of the numbers begins to increase and present problems in future uses of the records, for they are here withheld as pertaining to the dead Lee Harvey Oswald. The 100-10461 Dallas file, from which this was not provided in C.A. 78-0322 (and like the others, not provided from HQ files either), is the "see and not the Marina Oswald Dallas file. Once again there is the earlier partial declassification without being provided to me and reference to the Special Mail Room. These pertinent records were never provided in C.A. 78-0322.

Page 2 makes it clear that the numbers attributed to live confidential informants on the FD-142 are actually identifications of and distinctions between the tapping and the bugging. It also establishes the existence of records neither provided nor accounted for in C.A. 78-0322, including both translations of the tapes into English and "transcriptions of the information," which "will be filed in the above informant files," a probably explanation of the withholding of the numbers by which I could identify and ask for them.

The two withheld paragraphs (b)(1) appear to pertain to the physical surveillance of Marina because nothing else in the record does and that is the caption. If the information has not already been disclosed, which I believe to be probably, I do not believe the (b)(1) claim is appropriate or justified.

Serial 2400, of 2/27/64, requests "element's, not the Attorney General's permission to bug Marina. This is prior to the filing of the Dallas E FD-142 on it. No permission is attached.

The withheld of the three preceding paragraphs of 2401 makes it impossible to state what is referred to in "SAC Shanklin advises that they have established a good fixed surveillance," as of prior to 2/25/64. "Fixed" would not appear to be applicable to physical surveillance except as limited to the Ford home, which would not be complete.

Then Supervisor Long's note refers to two memos, one of Branigan to Sullivan, which may or may not be 2361, and "Walley to Rosen 3/6/64," which is neither provided nor accounted for on the worksheets. (Is Long not now an assistant director and subject to being embarrassed by some disclosures?) I recall nothing of the nature attributed to Dallas that was provided in C.A. 78-0322.

Instead of Serial 2402 there is a different charge out sheet, for "Serial Removal." It appears to be the original of the AG's authorization, but the form does not distinguish between the various forms of "electronic surveillance." It also refers to where the original is filed and to a file I do not recall having been attested to as searched in either the JFK or King cases. Any notations on the original could be historically important.

A copy of the memo is included as 2402. It differs from the copy attached above in having an illegible stamp (reverse and upside down) added and in ~~that~~ what appears to be exceptional, a delay until the next afternoon in sending the request for approval from the director's office. I would appreciate a xerox of the reverse side of this record, which should provide the information stamped on it.

In 2403 there is (b)(1) withholding of what pertains to the tapping at the Ford's. I appeal this.

2499, like several other of these records, is xeroxed off-center and thereby eliminates any reference to other filing in the right margin, the usual <sup>place</sup> ~~place~~ for it. ~~An FBI-~~ It pertains to Mark Lane, a monitored radio broadcast by him and the bugging of his press conference, all with JOSE caption. It refers to the Special Mail Room and to an enclosure that is not provided.

2550 refers to a Dallas record I do not recall being provided in C.A. 7290322, the discontinuation of two obliterateds. I take it these are the phoney informant files for both forms of electronic surveillance but the historical record should not rest on guesses. Besides, the physical surveillance was also filed under "JUNE".

2586 is of four days earlier and is a sordid business, probably accounting for the (7)(C) claim for part of what is withheld. That some of what is withheld is reasonably segregable is indicated by the reference to "George De Mohrenschildt (deceased). What is "unrelated" to the purpose, assumed to be of the electronic surveillance, but also obliterated, pretty clearly is the most intimate personal details of Marina Oswald's sex life and fantasies and dreams, already disclosed by the FBI itself. In fact, the withheld information is in court records, too. The FBI disclosed where it could embarrass Marina but withholds when it can embarrass the FBI (I've not noted all the times these records, pertinent in the litigation were disclosed but withheld from me. This is another.) Belmont's attached note forecasts that criticism of the FBI would follow disclosure.

2587 recounts a discussion with the Commission general counsel on discontinuing the physical and phone surveillance. It makes no mention of the bugging. (The obliterated information for which (7)(D) claim is made may be what is public, this offer from ~~MEMPH~~

her lawyer, to keep the FBI informed about her.)

2588 states that "Since 2-29-64 we have had a technical surveillance on the telephone at her residence." This means her home, not the home in which she lived earlier and where she and the Fords were bugged. This record also discloses that the Commission's general counsel did not ask the FBI for any electronic surveillance but that Hoover offered to tap the phone. What the FBI picked up on this tap, in less than three full days, was not what it alleged it would and was the cause of concern "that the Bureau at some future time could be criticized for this coverage." There is no mention of the extremely personal things, only of her "dealings with her attorney."

The last paragraph states that recommended action: "Since we have not advised the Commission concerning the microphone surveillance, we are discontinuing it on our own authority." Hoover added, "Yes."

~~(SIXTY-SIX SERIALS IN THIS FILE)~~

Serial 2642 states that "The Director had approved the request" for manpower from FBIHQ "based on the fact that at the request of the President's Commission... we had instituted a technical surveillance and had established a microphone surveillance." The dates provided for the departure of the SAs are 2-28 and 2-29, which means that these surveillances were in place before then. (Paragraph 1)

Serial 2687, which pertains to covering a Mark Lane press conference in Buffalo "by means of a concealed microphone installed immediately prior to the press conference," make a privacy claim to withhold the name of an official of the sponsoring political party, who issued a statement that is on the tape of the press conference. Privacy for participating in a press conference?

2688 is not recorded in a Marina file although it is captioned "file of" her. Although (b)(1) is not noted opposite any excisions it is on the worksheet, apparently pertaining to the withheld text. That it includes information obtained from and reference to the electronic surveillances is apparent from the claims to withhold the identifications of them at the bottom of the page. Some if not all the withheld information is disclosed. also indicated is the filing of pertinent information in

Dallas file 66-1315A. I do not recall receiving any records from this file in C.A. 78-0322. 66 is an "administrative matters" file.

While the record is captioned physical surveillance it appears to relate to the electronic surveillances, which are not captioned.

It is a Dallas record that was not provided in C.A.78-0322 and was not provided after it was declassified in 1978.

3144 acknowledges that the Commission did not ask the FBI to tap Marina's phone. In fact the idea was Hoover's. This is part of what I meant above in stating that the FBI lied to get the AG to OK the tap. In that request, attached above, in the name of the Director the FBI stated "We have received a request from the Commission for a technical surveillance regarding Marina Oswald. Accordingly, it is requested that you authorize installation of a technical surveillance at the Ford residence ... or any other address..." The record, after admitted that "the Commission" ~~did~~ never "specifically asked for a technical surveillance" on her, forecasts "public criticism" and that "it would be directed at the Bureau, rather than the Commission." This correctly states what I perceived on reading the records disclosed earlier, "it will become apparent ... that the information came from a " tap.

I believe this provides motive for the withholdings that were attributed to inapplicable exemptions. Embarrassment is not an exemption.

(What is withheld under privacy claim is of like nature. It is public, disclosed by the FBI itself in the cited report.)

Hoover's thinking on this is that the Commission was out to embarrass the FBI, not that the FBI's own improper acts would embarrass it, so he pretended reluctance in not passing information on to the Commission.

Above I refer to the "permanent charge out" of 105-82555 and provide these sheets for Serials 5585 and 5587. In fact they are included in this section and were provided to me. The apparent reason for pretending to shift them around (and until now withholding them from HQ and Dallas files) is their disclosure of the masking of the two electronic



surveillances as living confidential informants. (5585) This ~~196~~ 1967 record also reports that Dallas still had 22 reels of tape. Dallas asked if they could ~~be~~<sup>now</sup> be destroyed. The response, same Serial, is FBIHQ's order to "permanently retain the 22 reels of tape" although they hold only information the FBI had no business getting in the first place and nothing at all pertinent to the JMK investigation. The caption is withheld on both records under (b)(2) and (7)(D) claim, neither of which is appropriate. The identifications of the non-existing informants also are withheld under the same claims.

5587 is of earlier date. It is the initial recommendation of permanent preservation of these tapes. "In order to appear to justify this the truth is turned around 180 degrees: "Mr. Rankin suggested to the Director that the FBI could consider getting a telephone tap on Marina." The records state the opposite, that Hoover suggested it to Rankin, who did not ask it. The record then states that "As a result of Mr. Rankin's conversation we instituted a telephone surveillance ~~on~~ on" Marina. However, the bugging is not laid on Rankin. Moreover, although it would be proper to destroy these tapes, it says this should not be done, despite their apparent valuelessness, because the subject of the assassination is "of intense public interest and undoubtedly will remain so for all time."

At the end of this record, where the numerical identifications of the two electronic surveillances are withheld, "CONF INPT." is stamped on. (The same inapplicable claims to exemption are made.)

These are records that were withheld from both HQ and Dallas records, as provided to me, although it is now clear there was no basis for the withholdings. It appears to me that these records also establish the untruthfulness of the FBI's and Department's certifications to the Court pertaining to the worksheets covering these improperly withheld records. The foregoing is true even if the continuing claims to exemption are justified, as I believe they are not.

This represents a situation with which neither a court nor a requester can ordinarily cope, one of FBI false representation to defeat the Act.

105-1260<sup>3</sup>2, the FBIHQ Marina Oswald file - four sections

Attached is the first page of the worksheets, reflecting FOIA processing in 10/78, as stated above. Other pages reflect referrals not yet acted upon. The first of the Permanent Serial Charge Out forms, of which there are a number, pertains to the Not Recorded Serial of 8/25/64, following Serial 3. With this withholding it is ridiculous for the worksheet to represent "none" under exemptions claimed, which is the supposed explanation of the withholding. The record exists, is withheld and is stated to be in the Special File Room. This also is a JUNE MAIL record. The entries on the form provided are as illegible as on the copy attached. (Section 1)

The first worksheet for Section 2 attracted my attention because after Serial 82 it appears to be represented that the record was previously processed (as 105-82555-2307), that of its 9 pages I was given one, that none are provided with this Section, and there is the unexplained number 5 at the end of the line. The exemption claimed is (7)(C) only, making it improbable that however many pages are withheld in their entirety can't have any reasonably segregable material. I was provided with six pages of two records both having this number, neither fitting the description of the worksheet. And nowhere is there any explanation of the number added at the ends of lines or of the meaning of dividing the <sup>left</sup> column horizontally into two parts. (Applies to all sections.)

Illustrating that there are many referrals that have not been acted on I attach page 10 of the worksheets for this section. It reflects two referrals to the CIA, neither acted on, no records provided. (There are many such withholdings.)

Thirteen records are withheld by transfer to the Special File Room. Charge Out forms replace them. All are JUNE MAIL, all Marina Oswald records.

attached  
The worksheet page for Section 3 with which I illustrate referrals with no records provided reflects referrals to the CIA, "previously processed" and no records provided. This Section also has refiling of JUNE MAIL records in the Special File Room.

Reflecting the same referral situation is the attached page of Section 4 work-sheets, I believe the first I noticed. There are a number of referrals to ~~other~~ <sup>others</sup> agencies and there are a number of others to the CIA.

This Section has the same kind of JUNE MAIL refiling in the Special File Room and a "changed to" form indicating that Serial 121 is now 105-42489-5 and thus readily available to the FBI.

Not providing pertinent records merely because some clerk has placed them in another place amounts to deliberate withholding, in the absence of claim to an applicable exemption.

This would have been much longer if I had itemized all the improper claims to exemption when they are repeated over and over again, as in the pretense that the tapping and bugging were live informants.

In this case, by the way, the FBI cannot make even the only source claim because all those with whom Marina spoke were available to and were talking to the FBI, as was Marina herself.