

representing request

To Quin Shea from Harold Weisberg, King and JFK assassination 2/27/80
records appeals

The FBI has not followed the Department's and its own standards and directives in processing the records release to me in all my cases

When we spoke yesterday I learned that once again Department counsel had kept you uninformed about what you should know, what had been withheld from you by the Department and the FBI, if you are to perform your appeals function and if you were to fill the role for which the Court involved you in C.A. 75-1996.

I mentioned two records, once pertinent to each subject, and last night I located two but not the one I intended in the JFK case. I will locate and attach it today. The JFK record that is not the one to which I referred is, nonetheless, of significance insofar as it states clearly and unequivocally what kind of personal and national security type information the FBI did not withhold in historical cases and, as I described it in an appeal that I have already sent you or will be with this, is still another proof that the FBI did not withhold prior to FOIA what it misuses FOIA to withhold. As the appeals court has stated, FOIA is a disclosure, not a withholding statute.

You will not find any file designations on the King record I attach. This is contrary to the FBI's representations in C.A. 75-1996. It then informed the Court - I should say misinformed the Court - that all records go to and are retrievable only from its central records. This is not such a record. It is a record of the FOIA Section. It was retrieved on discovery.

Discovery was delayed by two Department counsel, so long delayed that as a practical matter I did not obtain the records of which the attached is part in time to use them in taking depositions.

Please note that the Legal Counsel memo is addressed to Civil Division, which withheld this information from the Court to be able to represent contrary to what it stated to the Court.

The subject matter is a case James Earl Ray filed in Tennessee, in 1978. Do not confuse it with one he filed in Washington, later.

Beginning on page 2 Legal Counsel refers to my C.A. 75-1996. In the second paragraph on page 3 it refers to the historical case determination in the first sentence and stated in the second sentence that "The DOJ waived privacy rights against public interest." (Marked in margin)

As you are aware, knowing this, and I did participate in conferences with Legal Counsel on the subject, Legal Counsel and Civil Division combined not only to withhold this information from you and me - it defended the FBI's violation of this directive in all the record processed in C.A. 75-1996. As you recall, to do this it even violated the Order of the Court, that the names of public employees performing public functions, not be withheld. (The Order predates the processing of any MURKIN records but was violated in the processing of them.)

Not knowing this, your review of the records, as processed, led you to what in one of your 1978 reports you referred to as a tentative conclusions that those records require reprocessing. (In a other one of ~~these~~ those reports you stated, after reviewing the Stipulation and the records processed under it, that if I were not satisfied, then they also require reprocessing. I could not have made it more certain that I was not and am not satisfied. Now, however, you have this additional requirement for reprocessing, that the standards and DOJ determination of privacy waiver, were violated.)

The cost to the tax payers and to my counsel and me of this violation of the DOJ determination have been enormous. So also the cost to the public, which has been denied this information for going on five years.

Withholding the information from the Court may also have had consequences.

However, the Court has not ruled on scope. You now have no need for delay until that question was resolved. I therefore ask that you proceed with this reprocessing immediately and as rapidly as is possible, including both FBIHQ and ~~field~~ ^{field} office records and specifically including those that were not even included in FOIA review. I believe I meet the prerequisites for expedited processing. I also believe that the age of this case requires it. If you have ^{any} questions or require any proofs, please ask.

The JFK record, 105-32555-3665, is the subject of my 2/26/80 appeal captioned "More restrictive disclosure attitude after enactment of FOIA; Privacy; National Security." I now provide that record, in full, as provided to me. (I also ask a review of the remaining classification claims, particularly with regard to whether or not the withheld information was within the public domain at the time it was withheld.)

As a result of Director Hoover's disagreement with what the underlyings said an enormous amount of truly and deeply personal information was disclosed in the interest of the public record. Before beginning an uninterrupted direct quotation of the description of this information, as of three years prior to FOIA, I explain the significance of ~~that~~ ^{how} it begins, "Examples of this are statements regarding Mrs. Marguerite Oswald..."

Those with whom Mrs. Oswald ~~spent~~ allegedly slept prior to and after marriage, men to whom she was not married, are identified by name, as she also is. She is described as a bad mother, as ~~is~~ irrational and in other uncomplimentary ways. She is representing as having lived with her last husband for a year before she married ^{living} him. His/children of previous marriage are identified by name.

The rest of this passage, from the bottom of page six, is, "...the marital difficulties of Ruth Paine, Mrs. Paine's mother admitting (sic) she was a communist, Mrs. Carol Hyde suffering from a mental ailment, etc. The publication of the WFO airtel of 11-19-63, in light of the current Congressional interest in mail covers, could well result in criticism of the Post Office Department and the loss of Post Office Department cooperation in highly delicate investigative techniques."

Mr. Lenihan, who wrote this memo to the Assistant Director, Domestic Intelligence, for Mr. Branigan, understated too much. That etc. covers virtually the entire Paine and Hyde families. (Ruth Paine was a Hyde.) ALL their friends and business and professional associates have no privacy, particularly not in allegations of political beliefs the FBI did not like.

The so-called mail cover and 11-19-63 matter really are what is public knowledge, the FBI's interception and copying of Lee Harvey Oswald's letter to the USSR embassy.

Director Hoover's handwritten comment is, "I don't ~~share~~ share your concern about these matters." This includes the personal disclosures and the "national security" representation. (Other of his comments are obliterated in the censoring. I believe they should be restored in this historical case, particularly where what remains indicates he disagreed with what he was told.)

The other record is attached to my appeal of 2/24/80 captioned, "Historical case standards stated by FBI but not adhered to." This 10/22/75 McDermott to Jenkins memo bears the initial of Thomas H. Bresson. It is from Section 183 of 62-109060 and should have a serial number higher than what is visible, 740.

On page 2 it states that "The FOIAPA Section is of the opinion that we should withhold material in this review only where there is an absolute, compelling reason to do so." and, "Further, it is considered that third party privacy should be applied only where the matter is of a deeply personal or intimate nature and disclosure would be clearly unwarranted."

"This review," while of Warren Commission records, also was of records that are within my current cases. These standards were not observed in them. Nor was another disclosure policy stated at the same point, which amounts to a (7)(D) waiver for only-source information from confidential sources, "telephone toll records, previously withheld on the basis that they were obtained from a confidential source..." (This policy also was violated throughout the King records, but in particular where the FBI wanted to withhold what could be embarrassing to it.)

When you add the Attorney General's 5/5/77 policy statement to this I believe it is inevitable that all those JFK assassination records, which were processed after that statement and those in the attachments to this appeal/memo, require complete reprocessing and that this is only because of the deliberately wrongful withholdings by the FBI. In fact by the FOIAPA Section itself.

Previously I cautioned you about this in the processing of the Dallas index. It should have been processed long before now, from the schedule I was given. As I then warned you, it was apparent that the only requirement for the long time specified by

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the FBI's the time it takes to duplicate the same improper and unjustified withholdings it made in the underlying records - exactly the opposite of its fine statements quoted above.

I ask for this reprocessing and for that of the index I have not yet received because I have received the information that the same wrongful withholdings are being duplicated.

The FBI and its counsel were on notice prior to the processing of any field office record or the index.

The amount of money the FBI has ~~wasted~~ wasted in the deliberately wrongful processing of these historical case records is fantastic. (Of course, having done wrong, knowingly, it then complains that the cost of undoing its deliberate wrong is too great.)

As I informed you yesterday, Department counsel, who is of the same Civil Division that knows of the privacy ~~waiver~~ ^{waiver} in C.A. 75-1996, has already told the Court that ~~if~~ all the withholdings in the underlying records will be duplicated in and slows down the processing of the abstracts. (The time schedule he has laid out would be greatly excessive from the DHI's own statements.) Because of this I herewith also appeal the withholdings from the abstracts, even though not one has been provided. The statement of Civil Division counsel is enough for the appeal. Nobody can hope to live long enough to obtain and use the records of these historical cases ~~because of~~ ^{because of} the stonewallings and withholdings. I want to do as much as I can.

It is too bad that nobody in the Department with the power to do anything gives a damn about these deliberate abuses of the Act that is intended to let the people know what their government does, abuses that are more serious than some of those the Department prosecutes others for committing. But if the Department did ~~give a damn~~ ^{give a damn} it then could not make the representations to the Congress it has to get the Act amended.