

Chrm - JPK

Mr. James A. Hall, Chief
FOIPA Section
FBI
Washington, D.C. 20535

5/19/81

Dear Mr. Hall,

Your letter of the 12th and the processing of the enclosures remind me of the saying that consistency is the hobgoblin of small minds. I am not attributing small-mindedness to the FBI.

Your letter concludes with the statement that the "processing of this material was coordinated with the " appeals office. I find it difficult to understand what you mean by "coordinated with" the appeals office when you make extensive claim to (b)(2) and Mr. Shea, who heads that office, testified that the claim to (b)(2) is inappropriate in such cases. You claim what he testified under oath you should not claim and this is "coordinated?"

You bracket the (b)(2) claim with claim to (7)(D). Neither is appropriate and neither is in accord with the language of the Act.

You withhold under these claims the identification of the file and the phoney informant identification used as a subterfuge, to mask the fact of the surveillances on Marina Oswald. To the extent that you withhold even the serial numbers. These do not meet the "solely" requirement of (b)(2), even if it were true, as it is not, that either the subterfuge or the other identifications related solely to the internal rules and practices of the FBI. The use of (7)(D), according to the statute, is limited to "an individual" or "a person." It also requires confidentiality, which has not existed for some years. In fact, under the (7)(C) claim you now withhold what you disclosed years ago and is freely available in the FBI's own reading room.

The 141 pages are bound into six volumes. The worksheets for each are blank for the entry "File No." No section identification is provided and where the words "Transcripts" and "logs" are used after Marina Oswald's name, the kind of surveillance is omitted. This is to say withheld.

The worksheets themselves are largely illegible, no mean accomplishment when they are, ostensibly, a first-generation copy of an original record generated in your section. In many cases the ~~cross~~^{cross} reference to where previously processed is illegible. This is true also of the claims to exemption.

The (b)(1) claim is inappropriate. At one point you make it for five consecutive records identified only as "FORM." None of the surveillances involved national security in any way.

For your information, it appears that Director Hoover talked the Warren Commission into believing that Marina Oswald might slip over the Mexican border. (With the assistance of those other non-conspirators, no doubt.) Mr. Hoover volunteered that the FBI could tap her phone, suggesting this to the Commission. Mr. Hoover then told the Attorney General that the Chief Justice asked for the phone tapping and got an OK for it. "He didn't ask for and he wasn't given permission for the bugging. He just had it done. The other form of surveillance was physical. The foregoing~~is~~ is disclosed in records already provided to me in this instant litigation.

Two of the withholdings of what the FBI has already disclosed are in the Marina Oswald - Transcripts volume the first record of which is dated 3/3/64. (In itself raising questions of any (b)(1) claim from the date alone.) On the second page of what may be Serial 3 the entire third paragraph is withheld under claim to (7)(C). The teletype reporting this information has been released. This also is true of the two withholdings in page 2 of what may be Serial 10. The first follows, "Marina spoke of fashions for men in the U.S.S.R." and the second follows "... that the FBI knows everything."

Where these records had been classified, the declassifications are as early as last December 8. This raises questions of why these records were not sent to me for three months when the FBI represents that it is proceeding as expeditiously as possible. Only 141 pages are involved.

On the FD 277s the identification of the logs is withheld under (b)(2) and (7)(D). This does not meet the "solely" requirement and does not involve a live informant and

thus is inappropriate.

On the Notification of Classification form provided for the microphone surveillance (none was provided for the bugging) even the classification is withheld as (b)(2) and (7)(D).

These withholdings are not justified and not necessary for any legitimate purpose. They are not consistent with the representations made to me through my counsel and to the Court by the FBI, through its counsel. They represent practices that assured this litigation to begin with and promise to prolong it unnecessarily. I would hope that the FBI, having forced this matter to litigation when there was no need for litigation, would not now want to prolong it and create other and also unnecessary costs and delays.

Mr. Shea has asked that I address you rather than him so I do this, with a carbon copy to him.

I would appreciate knowing when I may expect legible worksheets and the correction of these processing errors. I would also like to know that these practices will be eliminated in the records not yet provided to me.

Sincerely,

Harold Weisberg