

To Quin Shea from Harold Weisberg - indices

11/23/79

While this relates to a check of the two versions of the so-called prosecutorial index in the King case what I state is, I believe, applicable to all indices in both King and JFK cases.

The vague and indefinite and evasive - I believe also incompetent - representations made by the FBI only long after the issuance of an Order - about the Memphis subject index and their failure to make any response to what I sent you led me to ask Ms. Barrett to check the two versions of the prosecutorial index. She made a few notes for me prior to a temporary return to Vermont. I attach a copy.

I believe a tracing of the history with regard to all indices is pertinent, perhaps necessary to understanding.

In the King case my request includes all indices. There was no initial compliance.

In the JFK cases my requests include all indices. Again there was no initial compliance.

In both cases the FBI withheld knowledge of the existence of any indices at all.

In both cases I learned of their existence from close examination of the records.

In both cases the FBI and you continue to withhold from me copies of records I have identified that will disclose further details about indices. My appeals are years old. They have been repeated often. You have, in fact, included reference to such records in some of your letters but have not provided copies of any.

Obviously this does not represent either minimal compliance, intent to comply or good faith.

In the King case, once I specified that there was the so-called prosecutorial index the FBI first refused to provide a copy and then pretended not to be able to locate it. In the end it was located where I said it was. The FBI then held that it was not within my request, as it clearly was, and again refused to provide it, only to be compelled to under discovery.

Among the later MURKIN records I obtained is a memo in which the FBI admitted that it was engaging in unjustified withholdings. This was accompanied by the ad-

*William L. ...*

mission that reprocessing might be required, would be where privacy exemption was claimed. I have provided a copy of this record.

The withholdings were in violation of the Act, the 5/5/77 FOIA policy statement and an Order of the Court. They should not have been made to begin with in an historical case and were, I believe, made to make it impossible to have a clear understanding of what the FBI had and had not done in its investigation.

Over a period of time I endeavored to get the FBI to process the index properly. I provided proofs of wrongful withholdings but the FBI was adamant in refusing to do any reprocessing. All of my efforts to work out any compromises were rebuffed, forcefully. When, in November 1977, I accepted a counter-proposal, the only one it ever made, the FBI violated its own proposal. From then to now it has done nothing. This related to the names of prisoners.

Even after the reprocessing was completed or almost completed, the very week before the reprocessed index was provided, Chuck <sup>Attorney</sup> and his FBI associates were insisting with some violence that they would not reprocess this index.

When the original index was provided it was not bound in any way. There were perhaps 3,000 loose sheets. It was a laborious task for me to punch and bind them as I sat with my feet elevated and tried to figure out if the pages were in proper order and where each part of the unusual index began and ended.

Using the index was virtually impossible because of the nature of the withholdings.

The reprocessed index was provided the morning of a conference in the Civil Division, just before that meeting began. This was in the FBI building. Again the index consisted of entirely unbound, loose pages - one enormous stack of them. I asked that during our conference clerical help be asked to package the thousands of pages so at the least I might carry them safely. When the conference ended, just before my afternoon bus home, this had not been done. When I insisted the FBI agents found an inadequate box and placed some of the index in it. I placed the rest, bound only with rubber bands, in my large attache case.

Prior to this the FBI had been mailing records to me. I do not know why it did

not mail this. Nor do I know why it did not separate the various parts of the index as it was xeroxed. I do know the consequences.

The FBI knew I was in considerably weakened condition. It knew it had had to arrange to park Mr. Lasser's car inside the FBI building because my walking capabilities were so greatly reduced. This was at the time of the diagnosis of an aortic arterial insufficiency.

As I tried to walk down the aisle of the bus with a cardboard box in one hand and the heavy attache case in the other one jarred against a seat handle and caused a blow to my groin. Because of the high level of anti-coagulant on which I live (as the FBI knows) I am not allowed to bruise or cut myself and a large hemorrhage resulted. It could have been quite dangerous to me.

None of this was necessary. In the recent past the FBI had mailed me more than 50,000 pages. It did not have to refuse to reprocess the index while it was being reprocessed or after it had been reprocessed, only to be compelled by the conference with the Civil Division and the in-court situation. It was no great chore to separate the various parts as they were copied. In fact doing what would have been right would have been easier and less costly. I therefore believe that the FBI had its own purposes to be served.

Once again I was forced to sit for hours and try to make the replacement index coincide with the version provided under discovery, all the while punching and binding it, as best I could without any guide to the various parts or their separations.

As I did this I became aware of inconsistencies. I called one to your attention after there was the leak, prejudicial to James Earl Ray, alleging that he knew of a bounty allegedly offered by those anxious to have Mr. King killed. This relates to a convicted murderer, one John Paul Spica. When you did the checking I asked you found that the FBI claimed an impossibility, that its automatic xeroxing machines picked up and copied, as I now recall it, a loose paper slip. (Were got xeroxing marks also inconsistent with the FBI's claims?)

Recently, as I have informed you, Spica was blown to his reward

by a large number of sticks of dynamite attached to his late-model Cadillac, the kind of vehicle one would not ordinarily expect to be within the financial capabilities of a man not long out of jail or from the earnings of a fruit stand.

Yet there is no Spica, allegedly, in the prisoner part of the index although Spica was from the same area and allegedly was an in-jail associate of Ray's. And, of course, allegedly let Ray know of the alleged bounty.

From Ms. Barrett's check it appears that what was not withheld in the original version of the prosecutorial index is withheld after reprocessing; that the cards are not in the same order or sequence; that pages are missing; and that parts are even mixed up.

This is from a spot check, not an item-by-item check, which I am certain will disclose much more withholding - in the name of greater disclosure, of course. However, such an item-by-item check is beyond my capabilities.

There are similar flaws in the processing of the Dallas JFK documents index. Nothing had been done about my appeal after much more than a year. There was withholding, as in the prosecutorial index, without claim to exemption. Where this was termed an oversight, which I do not believe, it has not been corrected.

Now the Dallas subject index is being processed in exactly the same manner, with the hidden primary objective being the covering up of improper withholdings in the underlying records, which I did appeal promptly and quite long ago, long before the processing of that index was commenced.

And here we are, four years C.A. <sup>after</sup> 75-1996 was filed, with the situation described above true of the reprocessed prosecutorial index.

As I have already called to your attention, with the master subject index to the more complete records of the Office of Origin there was only one apparent need for a separate index to the many fewer prosecutorial volumes, the only one the FBI intended to let out of its possession. That was to let the FBI know in stentily what it had not kept secret, as distinguished from information it has and did not let others, including the prosecutors and the Department, know it had.

*for Attorney General - MK Appeals - Processed*

How we ~~are asked~~ to believe what is senseless - that having both a complete and an incomplete index the FBI destroyed the complete index while preserving the incomplete index- with a long case still in court and clearly destined long to be in court and of other, like "congressional and historical interest, giving every promise of continuing long into the future.

We are asked to believe this in the complete absence of any proof and without any first-person affirmation of the destruction of so vast a record as an index to the many thousands of records in the case of the FBI's greatest manhunt ever. There is no need for this destruction alleged and there was no such need, even authorization.

Consistent with this the reprocessed, more limited prosecutorial index engages in unjustified withholdings, as stated above.

The FBI goes to it that there will be no end other than by non-compliance, and there is non-compliance in the reprocessed prosecutorial index.

Aside from continued improper withholdings the only purposes served by what is indicated by Mr. Barrett's checking and repeated above is stonewalling and harassment of all other parties, including me, my counsel and the Court.

I do not accept this.

I am compelled to ask for a proper processing of the prosecutorial index.

I also ask that it be accompanied by a proper-first-person affidavit attesting to full and complete compliance, including with the Order of the Court relating to the (non)withholding of names and the 5/5/71 FOIA policy - and that it be separated as the index itself is separated, so that it can be used, the sole purpose of obtaining it.

