

Dear Bud (nad Jim),

5/2/83

Many thanks for the Mexico City Oswald file. It is particularly valuable because it has most of those records in a single file and I'm preserving it that way, as a separate file. I began a memo on it as I read the first few sections and I'll probably complete it after I tend other matters. But I have gone through all of it and as I indicated briefly to Jim, even if you'd made a deal you were had.

As you may know and may have agreed to, you do not have a single copy of a single record from the Mexico City office. You have copies of what was disclosed 12/77 and 1/78 in the general FBIHQ general releases. The FBI added MC serialization to these copies. Perhaps you agreed to this.

Such a deal could be particularly important to the FBI because it eliminates the risk of my going after them for disclosing what they withheld in the general releases. And they withheld arbitrarily and capriciously, and even what they also disclosed in the same processing. One example of this is the name Robert Kaffka, who was a San Francisco informer and who started one of the hittiest theories of Oswald and Mexico City associates.

If you made such a deal, you still did not get all the worksheets say you got. I spotchecked this when I got to the end, and as you'll see, what you are to have gotten on the last page of the last worksheet, you didn't get. Also some from the bottom of the preceding page. I've done no other checking.

By this arrangement you were not given any of the MC internal memos and notations, which can be very significant. You have nothing that the CIA has already disclosed about the cooperation between the FBI and CIA stations. You have nothing on the taking of the CIA's pix and tapes to Dallas the day of the assassination by SA then, later Congressman Eldon Rudd - and this is disclosed, to me, in C.A. 78-0322. Thus they avoided giving you anything bearing on what Hoover wrote Rowley the day after the assassination, that agents who knew Oswald's voice and appearance looked at the pix, heard the tapes, and said it was not Oswald. (This did not keep anyone from telling the Commission that the pix was Oswald, naturally.) The tape was transcribed and you have not even a mention of that.

What may be significant, and my memory is not clear on what was stated at the time, the CIA originally kept secret what it knew of LHO at the Cuban Embassy. I'm making a separate copy of this. So, the tape(s) have to have been USSR intercepts. And the pictures to have been taken there, not at the Cuban Embassy.

There also is what can be valuable in FOIA litigation, and I'm making separate copies of them and in time will do a memo for Jim. Among these things is the fact that prior to FOIA problems that the CIA had a station in MC was disclosed and there was no harm to relations with Mexico. Also, when the MC FBI predicted the most dire consequences if one of the consolidated files was disclosed, FBIHQ did it anyway because the Commission desired it and nobody has ever reported any harm from this.

A number of classified files were declassified and they disclose that there never was any basis for classification. The FBI just did not want to disclose anything. (Where there were informers, 7D covered that anyway.)

I believe I wrote you several times about what was anticipated in the field office cases, with Smith, and his collaboration with the FBI in rewriting the Act through me, and Jim and I discussed several things I believed it was very important to do in anticipation of Smith's exploit as a running dog. Alas, they haven't been done. So the case record, good as it is if honesty and accuracy were a consideration, is inadequate and essentially defense, when aggressive action is required. One of the things I know I mentioned to Jim that he didn't do anything

about, I presume because other needs prevented it, is alerting others to the nature of the precedent and its effect on FOIA and litigation under it and the personal hazard to me of being sentenced to jail, even if only long enough to arrange bail. For both I felt he and I needed other counsel, and I suggested Mark Lynch of the ACLU and the Waders people. I should have mentioned the Reporter's committee, too. And where this can be very costly is to the corporate users of FOIA and their counsel. When we spoke briefly Saturday and I asked Jim about this he said he'd not been able to decide between Lynch and the Waders. I see no reason to decide and believe both and others should be talked to. Before long this will be much more serious for me. I think there is no real hazard to Jim but believe he ought have aggressive and independent counsel just in case. Someone who can be a tiger in the courtroom would be fine. If he is still interested in such things, I'd love the Virginia lawyer whose name I've forgotten who did such a job for the Hunts, as he told me, because it was time he got rich. You were cocounsel with him once. He wore boots and the bar also went after him, unsuccessfully.

Aside from the clear and present danger to me and the Act, as I'm sure I said before, I believe that this presents a real chance for some spectacular intellectual judo, of turning the whole thing around on Smith and the FBI because of the clear and undisputable facts and the also undisputed case record. The fact that I am 70, unwell, of no means and yet fighting this fight for others, in no sense for myself, and running such risks, does not reduce the possibilities.

In any event, I must prepare myself, to the degree I can. That reminds me of something you have. Interruption. Phil Kirschkop. I mean only prepare myself, not do anything now. One thing I'll be able to use, in extremis or perhaps with the press, where I'll resume earlier overtures, is something you have and of which I can't find my copy. I believe that last gave it to you. It is a page or two from a transcript in which Smith said, in open court, that he takes his leads from the FBI. Which is what, without real deviation, he has done in all my experiences with him, particularly in this case.

As of my present understanding, because I will not do what Smith has ordered, in time there will be a confrontation with contempt. And this is a matter than can go to the appeals court. It is my understanding that all that I have alleged bearing on bad faith, lack of need or even claim to need, and my undisputed allegation of burdensomeness, will all be pertinent. I sure hope so! If you don't remember, the question is of discovery on me and then my paying their counsel fees.

I don't want to talk to Jim about this until he files whatever he files on the appeals petition for rehearing. By then I'll have prepared a little more for him to give Smith. While he was trying to find time to rewrite one my affidavits Smith went ahead and ruled against us, so I've asked him to file it with a Motion for Reconsideration and by then he'll have some new things I've just found.

As Jim knows, I've been trying to wipe these stonewalled FOIA cases out for years, but I also feel the obligation not to agree to my being used to foreclose future disclosures forever, and that can be the result of dismissal with prejudice. Thus I have felt I have to continue to fight. although I'd much rather spend what time I have in other endeavors, like writing.

I hope you and Jim have a chance to discuss these problems.

Again, many thanks for the NC that isn't NC but nonetheless is very worthwhile.

best,