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Re Quin Shea from Harold Weisberg, King assassination records appeals 6/24/79  
Deliberate non-compliance  
Department, FBI rewriting of my actual requests

A copy of Deputy Tyler's 12/1/75 and of Director Malley's (TLW's) 12/2/75 letter to Mr. Lesar, both 44-38861-5004X, are attached. In each case Mr. Lesar's address is obliterated, which is pretty silly when he is my counsel and these records were supposedly processed for me. (While the FBI, particularly its #2040, have asserted a wide variety of national security claims, I was not aware that they had classified the Washington phone book.)

Until Mr. Tyler's letter all my requests and appeals going back to 1969 were ignored. Mr. Tyler's letter represents the beginning of a continuing and deliberate non-compliance by means of a rewriting of my requests. It also represents factual inaccuracies that led to non-compliance.

Unless my actual requests are examined this will never end and there will be still more non-compliance. The cost of the trick that began with the Tyler letter has been considerable for all parties. It was not because the Department and FBI were unaware because my reaction to the Tyler letter was prompt and vigorous. I insisted that my requests be responded to, not the Department's substitutions for them. To date this has not happened.

Mr. Tyler's letter refers to my request for "The results of all 'ballistics tests' [item number 1 of Mr. Weisberg's request]" (page 1) and "item number 1 of Mr. Weisberg's request for 'results of any ballistics tests,'" (page 2). The Department deliberately did not comply. Instead it decided, without asking me, on a course it has not since changed, of responding to other than my actual request. It merely decided that when I said any I did not mean any, that I meant only one: "I have not included as matters for consideration the results of a great number of ballistics tests performed on rifles other than the one owned by Mr. Ray." I was then told that if I meant what I said to begin all over again, go back to the Square 1 of 1969. (When thereafter I asked the FBI for the results of these other tests it told me there were none, that the other rifles listed were listed only for informational purposes relating to caliber.)

As a result as of June 1979 I do not have the information the Tyler letter itself quotes me as having asked for and this three and a half years after the Tyler letter.

At the top of page 2 Mr. Tyler states incorrectly that the FBI's "sketches portray only Mr. Ray, as there never were any other suspects in the case." The FBI has sketches other than of Mr. Ray and in the first two weeks the FBI records I have examined boast of having identified some 400 suspects. And so were are at Square 1 with this item also.

If an appeal the Department does no more than repeat the FBI's untrue representations the Department's appeal is no more than a rubber stamp.

The next matter in the same paragraph of Mr. Tyler's letter illustrates this further: "It may be that the Department has no photographs 'taken at the scene of the crime' [item number 6 of the request], in the sense your client uses the phrase. To the limited extent that we have photographic and other materials that depict physical conditions or event, they will be released to Mr. Weisberg."

Nobody asked me if I intended any "sense" other than of all photographs of the scene of the crime - which also includes of persons.

In fact the Department knew of such photographs because of use in the extradition.

In fact any checking of the FBI's indices would have disclosed the existence of photographs of the scene of the crime. Instead of doing its own appeals work the Department took the FBI's word. As a result the FBI swore that an examination of the records which discloses the existence of these photographs does not disclose any such photographs. And rather than all being released to me the Department has contacted the Order of the Court that copies of the law photographs be provided me.

Here I depart from the Tyler letter for an explanation that may be helpful to you.

Once I began to prove that the FBI's affidavits were falsely sworn the FBI grew reluctant to provide affidavits. It provided none, from any source, include Time, Inc. and Jolson, to establish ownership, agency or copyright with regard to photographs taken by Jolson, who was at the scene of the crime at the time of the crime because he was working for Public Television, not Time, Inc., as a photographer. Unsworn firm false

representations to the courts relating to these photographs include claims that copies are available only from Time, Inc., only at the high charge it makes, and that anything else would be considerable and irreparable harm to Time and to Cow. (It also is alleged that I could have examined them and obtained copies at any time, both false. Cow refused to respond to my repeated inquiries and Time refused to provide copies for use in federal district court in Memphis when I made this request as Ray's investigator, sent to Time by Ray's chief counsel.)

I attach herewith provide you with prints of 15 different Cow photographs I did not obtain from him or Time and of which I was not aware until after the record in that part of the litigation was closed.

These are remote-generation copies which originate in England. I obtained them from someone in Tennessee. I understand that the identical photographs are available in New York and New Jersey ~~also~~ also. The original copies were provided by someone from Time, in no case to a subject expert.

In some instances these are partial enlargements of the original photographs, with which I am familiar.

Selection was not made by a subject expert or by one experienced in investigations.

Despite these and other limitations it is obvious that these photographs depict information essential to any study of the crime of the FBI's functioning. They reflect the position of the victim, the location of the body, persons present and part of the crime-scene search and those participating in it.

These photographs do not include those that hold greatest embarrassment for the FBI. One, since made public as a result of my work, shows the Informer McCullough crouched over Dr. King's body, first to reach it.

It was not the Memphis Field Office concern for the alleged proprietary rights of Time that led it to suggest a copyright claim to FBIHQ, whatever FBIHQ may have known of the content of these photographs.

In any event, Mr. Tyler did not keep his word. The photos were not provided.

Because I do not presume that the DAG made his own examination of FBI indices and records I do presume that what follows, a straight-out lie, comes from the FBI, not from the DAG's own knowledge: "Similarly, as to item number 7 of the request, no \*information, documents, or reports made available to any author or writer\* can be identified as such in our records." (There are innumerable instances of leaks) and

By coincidence one of the records I had not been able to get to until last night is precisely such a record, of a leak to the New York Times that could have come from the FBI only, as the Tampa record states. The MURKIN records thus do disclose that there is what the FBI told the DAG there is not, besides what is outside of MURKIN filing, a matter of which I have informed you in earlier appeals.

(In addition to what I have provided with appeals I have provided examples of such assistance to sycophantic writers in affidavits in this and other cases.)

Based on what the FBI had to know is this deliberate lie the DAG denied and then claimed he was not denying to frustrate further appeal: "Based on the foregoing facts, I have concluded that there are no records within the scope... . There can, of course, be no denial of access where there is no record; there can be no appeal where there has been no denial of access."

In less legalistic language this argument is that the FBI can lie its head off and because the DAG chooses to believe and not in any way to question its lying there is no FOIA and no rights under FOIA.

This mocks appeal as it mocks the act it would negate.

The likelihood of this letter reaching the Director of the FBI, working its way through that additional mail system and reaching SA Thomas Wiseman in time for him to draft and mail the second record attached hereto on the very next day, appears to be rather low. A more likely explanation of this sudden haste after so many years is the fear of being clubbed on the air by CBS-TV, which filed a later request for only some of the information (little as that was) disclosed with these letters to my counsel.

(Here also the copy in the MURKIN file appears not to be the main one, with indi-



caption on the form stamp that it went to Administrative Division only whereas typed-on distribution is much more extensive. The Mr. Lamm who is included in an appeal dated yesterday also was the recipient of a copy. Importances of all copies follows.)

SA Wiseman appears to have drafted the letter of 12/2/75 for the Director's signature. This means that he was aware of the contents of the DAG's letter. Because he also was then the FOIA supervisor in this matter there should be no doubt of his knowledge of the requests, the searches and the records provided. In plainer English this means he had personal knowledge of the dishonesty of the entire affair. While I have no knowledge of the means by which the DAG was given untruthful information by the FBI innocences on the part of the supervisor does not seem to be possible.

Among the many notations and stamps added to this copy there are some that refer to where other records are. I believe that compliance in the King case as well as my RA request requires searches of all notations or where they indicate.

In particular I cite "EHF P/B 12/2/75." (No file number is cited.) This appears to refer to an "enclosure behind file" and of that to Part B.

The added note includes GIB along with the FBI in opposing compliance and initially rejecting my requests on the contrived ground that there was a "pending trial" after it had been refused by federal district court. Unfairness to Ray was alleged when my counsel was also his counsel and when at most compli. case might have let him know some of the alleged case against him. How this could hurt Ray is not explained in the earlier records in which I was first informed of this position.

The explanations I provide are intended to make it possible for you and through you the Department <sup>to</sup> ~~might~~ be aware of the origin of what has by now cost a considerable amount of time and money without compliance and without the end of this case being at all close. Moreover, information that does exist and was withheld beginning with the 12/1/75 letter remains withheld to this day. This is a record of which I would prefer to be able to believe the Department is not proud. It is, however, the actual record made and preserved or perpetuated by the Department.