Mr. Richard L. Huff, co-director
OIP
Department of Justice
Washington, D.C. 20530

11/29/86

Re: Appeals Nos. 80-1644,81-0533 RLH:PLH

Dear Mr. Huff,

Your letter of 11/26 states that in it you act on these two ancient matters and another even more ancient appeal to which you make no reference by any number, the last item in your letter, the matter of the JFK assassination recordings of the Dallas police and what you do not mention, the related records that, according to your letter of two years ago, were found with the recordings. You conclude by informing me that I may take these matters to court- where at least some have been for quite a few years, as long ago I informed you, without response.

With regard to the dictabelts, which would have been located many years before they were blundered into two years ago, you state that you are engaged in discussions "with Congressman Stokes concerning the proper disposition of" them. On this subject I believe that the courts have already held that the Congress may have a voice in disclosure only on records originated by it. Can it possibly be that these discussions have extended over a two-years period during which time the Department has made a number of representations regarding them to the courts?Can you claim any exemption for them when they were transcribed by the FBI and when it and the Warren Commission published those and other transcripts?

Had my earlier appeals and affidavits not been totally ignored, these recordings would have been found despite the FBI's determination to stonewall me because I attached the FBI's own records disclosed to me in the continuing litigation. Moreover, and your office has ignored this for many, many years, the FBI earlier made its own tapes of those recordings, an appeal on which there has been no action despite its relevance in this litigation. I provided the FBI's own records reflecting even the make of tape recorder it used, a Wollensak, and the transcription of those tapes in ths Dallas field office. I also reported where in Dallas those tapes had been stored, not in a file cabinet, and how they were indexed, outside the JFK assassination main files. (Your predecessor held, on this very subject, that how information is filed is not relevant and that its content is relevant.) I have no reluctance in indicating why there has been all this stonewalling, and this is relevant also to other matters in your letter, the FBI early on made a decision to restrict disclosure, including to the Warren Commission, to the information it decided to file in these few main files. And enormous amount of relevant information is filed outside of them.

Both the dictabelts to which you refer and the tapes you continue to ignore are historically important, more so because the Department decided to have a study made of the dictabelts only and to have it made outside of FOIA, by the NAS. There are, for example, questions about the fidelty of the FBI's ttanscription, even of the authenticity of the dictabelts, which may not be the originals. So, regardless of the present condition of these dictabelts (and my request was eight years ago, not recently) if they are ever to be used copies of them can be made, the sooner the better. In making copies for me you can make preservation copies. Have you sought to learn whether they can be strengthened so that copies can be made?

When I responded two years ago I asked, among other things, for copies of the records you found with these recordings and I told you that there was little likelihood that they were within any exemption and that after I read them I might be able to be of assistance to you. You still have not provided these nonexempt records and you have, I take it, no interest in any assistance in complying with the attorney general's directive, that there be maximum possible disclosure. Given the age of this matter, I hope t at for once, particularly with the matter in court, you will make prompt response with regard to at least the withheld, nonexempt records.

I dispute your claim that all file numbers "are purely internal matters as to which the general public has no legitimate interest," particularly in historic cases. My ignored appeals contain many illustrations of tricky filing to frustrate search and to elicit the kind of factually incorrect decision you make. One is hiding surveillance records outside the case records, as "administrative matters," classification 66. Another is hiding all sorts of information there is motive for withholding in the field offices as "80. Laboratory Research Matters" when they are nothing of the sort - and this is particularly relevant in New Orleans records I've provided. Still another is the FBIHQ misuse of "94. Research Matters" to hide from search multitudinous records relating to the press, to leaking, to propaganda, to lobbying, to critics, etc. You and others merely look at these numbers and hold they are not relevant but if you had looked at the New Orlean 80 records I provided you would have seen instantly that they are relevant, particularly with regard to Jim Garrison and David Ferrie, both of whom you mention. In taking the position you have taken, without regard to content, you have made yourself part of the automatic withholding machine, more so because my appeals and affidavits were ignored. Moreover, you have not addressed the fact that such numbers can be disclosed without harm to innocent persons or those who are dead.

There is much information relevant in the JFK assassination and its investigations that is "non-investigatory" and thus FOIA cannot be used to withhold it, not properly, anyway. If there is genuine privacy concern, that is another matter, but the withholding cannot be automatic and, under the attorney general's determination long ago, there must be a really urgent privacy concern to withhold in this matter. The probability of this is not great and withholding of what has been disclosed under privacy claim has been simply enormous. This is also often true of claims to confidentiality and this is why your Department asked my assistance many years ago and why I provided what in my copies takes up a file cabinet of information on this subject and a like volume on the King assassination and its investigation. Not uncommonly this claim has been made to prevent embarrassment to the government, not the individuals.

With regard to such persons as Jim Garrison, former FBISA James P. Hosty and the deceased Clay Shaw and David Ferrie I doubt whether the Criminal Division is in a position to know what has already been disclosed and I am certain that in the FBI's review its determination of what is "of some significant interest in the government's investigation of the Kennedy assassination" will result in wholesale, unjustified withholdings if for no other reason because it regards anything not indicating Oswald's lone guilt as without significance. To illustrate from an ignored appeal and this current litigation, the FBI regarded the late Ronnie Caire as without significance although he was a registered foreign agent to whom Oswald applied for a job and it never so informed the Warren Commission or, to the best of my knowledge, the attorney general. This determination ought not be the FBI's and I believe that FOIA does not visualize that it would be. Here is how it works in practise, again relevant in the current litigation. At least one of the FBI's symbol informants notified it that he had had homosexual, sadomasochist relations with the late Clay Shaw. This is not in the main assassination file, Shaw is a specific item of my request, yet the New Orleans information remains totally withheld, deepite testimony indicating the interest of a homosexual, allegedly Shaw, in providing Oswald with counsel. (This also gets to the proper interest the public has in file numbers and to the fact that they are not 100% internal agency matters only, because the file numbers could indicate that the source was a symbol informer, 134 if security, 137 if criminal, 170 if extremist.)

I am dismayed the the records relating to guidelines for disclosure have disappeared. If thay cannot be located in any other way, I think that it may be possible to obtain at least some from other components, especially OLC. How these Department records can be "solely of Bureau documents" is far from apparent, as is treating this

truly ancient matter as a new request. I think you've gotten into the habit because you've done this with many old appeals and you've never once responded when I asked that each retain its original number, a number that reflects its age accurately.

At my age and in my health, with the limitations it imposes upon me, as a practical matter there may not be much I can do to help you if for once in this historical matter you are willing to accept help and stop misusing FOIA as a license to withhold and instead try to make maximum possible disclosure. That the for me considerable effort and cost was entirely wasted when I provided the requested help is not encouraging and it and subsequent misuses were abusive. I can't begin to offer anything like that and you and the FBI don't want it anyway. However, there ought be much with regard to which I could be helpful, for example in indicating what has been disclosed about those associated with Shaw, Ferrie, Garrison and Hosty(oh, yes, in connection with Hosty his former SAC, almost charged with perjury) if I am asked. Interest in this matter, as the appeals court once stated, is not going to end and the potential for serious embarrassment to the government and to those who made and are making decisions is real, depending on what may at any time attract serious attention, does exist. The record of unnecessary and unjustifiable withholding can then have a synergistic effect. I've had too much experience with so many of you over so long a period of time I do not expect any of you to rethink anything. However, if at any time anyone does want to approach this matter seriously and honestly and not as stonewalling or further abuse, as long as I am able and to the degree I am able I will provide whatever assistance is possible for there to be the maximum possible disclosure ordered by the attorney general.

Because I am not able to do much and do weary rapidly, I would appreciate it if in any further correspondence you provide the subject matter of the appeals. To begin with I was not given any numbers and at least the FBI refused when I asked for them so I could not file that way. Other than to the degree your letter reflects their content, I have no idea what the appeals to which you refer are.

Afterthought: with regard to Hosty, one of the scandals in which he was involved is his destruction of a pre-assassination threat from Oswald. An FBIHQ tickler recently disclosed to Mark Allen states that this matter, i.e., the destruction (which enabled the FBI to foist off on a trusting Commission and country the fiction that Oswald had demonstrated no tendency toward violence) was "handled" by FBIHQ virtually the moment Oswald was killed. The FBI has not disclosed the underlying records. There ought be some of this in the Shanklin, which are Hosty, records at Criminal if for no other reason because it considered filing charges against him. The decision that this would be "bootstrapping" has been disclosed to me, albeit on a different subject.

Sincerely,

Harold Weisberg
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Frederick, Md. 21701