Dear Alan, 7/24/84

Your letter and interesting enclosures came yesterday and I made some notes I'll get to when I continue this tomorrow. Jim phoned me about another matter and he then updated me on the status of your case. I'm glad you do not mention moving to reconsider because I think you got as good and fair a decision as could be expected and because, clearly, the CIA has given Greene an awful lot of work that he reflects not liking.

As soon as my wife finishes some copying I have to leave to make outgoing mail and we'll dine while out, but there is something I do not want to forget and that is why I begin a letter I'll not be able to finish today.

I've recalled the names of three lawyers/firms who represented Trujillo and might or might not be willing or able to help you. (I'm not sure about Tommy the Cork.) The Homer S. Cummings firm, then in the Commonwealth Bldg. I can't remember the name of the partner who seemed to be more or less in charge of that work. The secretary was Betty Wright, who then lived on 16th St. on Meridian Hill. Mike Gould, a tax lawyer, lived in McKinley a little east of Conn. Ave. Monroe Karasik, I think connected with Gould, more than as a friend, but perhaps not in the same firm. Karasik would have had a knowhow and understanding greater than that of most lawyers because of his World War II background in the government. I think he was in economic warfare and I know I was doing that kind of research when I first met him, when I was in OSS.

Also, I think you should consider filing requests re Johnny Abbas and Nando Castillo, of both FBI and CIA and perhaps other DJ components. Nando died a couple of years ago and if you need the obit I can provide it. I seem to recall hearing that if there is a reward, Abbas was in a position to receive it. I don't recall if his death was from natural causes and I seem to remember that it may have been in England.

In the recent past, after reading that dreadful man Phillips' book and Smith's, which were approved by CIA, I suggested to Jim and Bud that someone should keep tabs of the disclosures authorized in these and the other books and the withholding of the same info by the same CIA in FOIA cases. The disclosures include sources and methods, location of stations and bases and particularly identify foreign agencies. True also of the FBI, which, when it suits FBI purposes, discloses even xeroxes of what was provided. (I have this in case records.)

So, is it possible for you to ask questions of the CIA, ask for attestations by those who have knowledge that what is withheld from you has not already been disclosed, I mean officially, their standard. And remember, there are referrals, by the FBI to CIA with approved disclosure by the FBI. Also Congressional disclosures. I don't know how you can ask questions at this juncture, but if there is a proper way I think it might help.

Before a judge like Greene I think it would be significant if you could prove that they lied. I'm sure they have and that your lawyer would not use that word, but when they overload a judge based on false representations he might react. Some have. If very few! Withholding what has been disclosed is not unheard of.

7/24: The Cummings partner whose name I could not recall is Albert Reeves. My recollection after about 25 years and perhaps not dependable is that this firm more or less handled Trujillo's Congressional and government relations and lobbying. Cummings was rather old then, although he was in the office daily, so I think that maybe Reeves was the one who was on top of things. (Nixon bought his home on Forest in Spring Valley.)

or internal

Informing your lawyer is OK. I'm sure a fair amount is buried in case records. I've forgotten what I reported and I may be able to think of more if there is need, as if he wants to establish a pattern, sort of FOIA track record. If I didn't tell you, I have one of their internal records showing exactly how they get their general counsel, then Warner, to lie. And he did lie to Lesar and me.

I've just remembered what may be known to you. At the time of the Galindez disappearance the weekly American Guardian, I'm pretty sure before the extremists (to me) took it over, had a series of articles on the Galindez case. It was then edited by a decent socialistic man named James Aronson, in N.Y.C., with an editor-in-exile Cedric Belfrage. Exile at Cuernavaca, Mexico. I don't know if either is alive or had any useful knowledge to remember.

As I reread your letter, your report of the CIA's position that all sources and information identifying them should be forever exempt can be punctured by your showing that when it suits their purposes they do disclose, as I indicated above.

You describe Hall as a "jolly hardnose." Nothing in my experience suggests jolly, but hardnosed, hardheaded and utterly impervious once the FBI's line is laid down, that's the guy I've been dealing with. There is no such thing as dishonesty, immorality or even common decency in those people in cases that are in any way delicate to the FBI. They don't really try hard to avoid perjury. They'll make a few attempts at evasion and misrepresentation and when that fails they just lie under oath. It also is common for them to avoid attestations of first-person knowledge. This has the advantage of letting someone who doesn't know a damned thing lie his head off on the alleged basis of alleged information he allegedly obtained in the course of his official duties. Of all his many assistants I've met there is no exception. By my requests are all potentially embarrassing to the FBI and they have long disliked me anyway. But beware! if there is ever any indication of FBI negligence in the investigation, if they did investigate, expect at the least prolonged stone-walling.

If the FOIA section is accepting any requester's statement that someone is dead that is new.

Hall misrepresents Shea's position as I knew it and as he testified as a DJ witness in one of my cases. He made a careful distinctions, as I'm sure Lesar will remember, between those he referred to as "players" or those of some significance in the investigations and others, and it was players he believed, after a balancing test, might not be withheld as 7Cs. Interestingly, when the matter was put to Hoover he crossed them all up and insisted that there be no withholding from anything the Warren Commission wanted to publish, without even reviewing those records. This included FBI names and FD 302s(?), the interview report forms. This was not their real reason for getting rid of Shea, which I'm surprised he acknowledged, and they consistently disclosed anything and everything about those they wanted to hurt or embarrass. Within my experience Shea supported them on withholding addresses, and he explained his reasons to me, re non-players. His airline clerk story is poppycock, and with all such standard sources the clerks were never on their own but followed standing policy.

"Implied confidentiality" is a device for withholding. I can't tell you how many records I have in which, where there is confidentiality, it is stated.

FD302s are not " an agent's first recorded interview notes." The form is the first page only and it, in my experience, is used on each and every interview. I've never known them to be withheld but agents' names have been, inconsistently. They've made a variety of claims to withhold and have sworn both ways in my litigation for the same periods of time. Hall murmered because you caught him. They have always disclosed airtels, TTs, LHMs, summaries, etc.

When information is attributed to an anonymous source it is never the original record. The field office record always discloses the source. It is in distribution

(They do not like "informer")

that there is anonymity, and this is not by any means always improper. They'll append a page to FBIHQ, which it omits in distribution, identifying each source. T-1 may be all that appears in what is distributed, but T-1 will be identified to HQ. Where the source is what you call a paid informer, to them a "symbol informer," there is at least one underlying record, a form the number of which I've forgotten, actually an informer contact form, that is filled in, with evaluation and identification. (The indetification may be only the symbol, like DL CI 2892, Dallas criminal informant 2892. It is not sometimes that they keep records of payment. I have never heard of any exception. Not that all are genuine, but there is always a record or receipt.

On the withholding of names below GS-15 only after Shea left, this is a plain lie. They did it extensively while he was there. and, incredibly, also in other litigation did not withhold at the identical time period.

On their not having published anything to aid requesters, they have published something different that can help you and it is not classified. If they are unwilling, Jim has a copy. It is a large pamplet titled "FBI Central Records." It does tell you pretty much how they handle records.

His denial that "former agents are not supposed to talk about their activities as agents," I know of no case in all the records I've seen where this happened without the agents checking in. and getting an OK. Some have sounded off without permission being recorded and some clearly did not ask. as I'm sure Schott did not ask for his delightful book, "No Left Turns."

If you meant that info from foreign agencies was usually classified beginning in the 1950s, not so. I don't recall classification of such information in criminal cases. Moreover, they've disclosed evidence provided by foreign agencies to me in facsimile, xeroxes. They they turned around and swore that they could not disclose such cooperation because the foreign agencies would then terminate the relationship. This is utter nonsense, and the cooperation is very well and publicly known. It is an excuse to withhold what they want to withhold. I've never known information that deserved and required classification not to have been classified.

Re "stats and quotas," etc. Statistics have always been the FBI's answer to anything at all. They have been compiling such statistics, and they contrive ways of inflating them, as a means of appealing for relief from FOIA because of its cost and time requirements.

The Special Intelligence Service files: if they don't spot the stupidities that should be in them from some I saw contemporaneously you'll have a ball. The agents were Hoover's clones and usually without ordinary political understanding. Anybody to the left of Genghis Khan was red and even a Univ. Penna graduate student doing a doctoral thesis on the Spanish Falange was himself, ipso facto, a Falangist. As of 1964 they still had more records that these 25 control sections. They still had all the receipts for cash given to informers. Some were relatively high up in their countries. I know of a case in which a country's president was a symbol informer for very little money. I also know the agent, who hasn't been an agent for many years. (Ecuada) I don't believe for a minute that all they have is this control file that is probably a tickler, but you'll be able to tell when you see it.

If I were to guess why all was completely silent when you mentioned Tom Bresson's name it is his covering of his own ass. Bresson is a tough character who is capable of anything and they all know it. They'll not take any chances. It is undoubtedly true that foreign governments provided info to the SIS agents, but I think there will be individual or personal sources where they may still be a chance for embarrassment. Your graf on Falb and other SIS materials suggests again that this control file is a large tickler and the individucal records in it will disclose the files of record. The main files, that is, the serialized files.

I'd not be a bit surprised if some of the anti-CIA feeling in the FBI over its loss of Latin America intelligence might still persist. I know they've gone out of their way to embarrass the CIA and that as of the Valindez period they loved to do this to the White House. Nichols and DeLoach operations. Much less often Hoover in person. If you make the request I suggest now they'll be on guard and resist, but when you've gotten about all you expect ask for a search of the FBIHQ 94 classification. The official title is "Research Matters" but it is the press, lobbying, etc. file of that Division.

Your impression that Bresson is bland and cautious is, I think, a potentially dangerous misreading of him. He may well have been cautious with you, but if there is what to him or the FBI any kind of crunch you'll find he is neither and extraordinarily tough and what most people would regard as incautious. There is nothing too ridiculous for him to swear to, in my experience.

The CIA argument that impressed Greene, page 6 of his order, is reasonable and will impress any judge. This is one of the things I had in mind above in urging an effort to show what had been disclosed. There appears to be the separate question of the information provided. The CIA is likely to claim that the information itself will disclose the source, but that isn't necessarily true and proper use of the exemptions is often all that is required for reasonable disclosure. While I doubt very much that any intelligence agency will refuse to cooperate with any other, each having similar needs and problems, I don't think you'll ever get a judge to take this position, for many reasons. So, I think you'll be better off not demanding disclosure of the source and going for what information you can get that was provided by and does not pinpoint that source.

I note here that the judge is limited to what is disclosed in what is before him, footnote 9. But much has been disclosed officially that is not reflected in the records before him, which again gets back to what I suggested earlier. They may resist but if there is any way of asking them if there has been any disclosure elsewhere it might help if that information is important to you. Or if you can show that it has already been disclosed.

Greene is not without some other knowledge in this area, from other litigation. I once provided an affidavit that appears to have influenced him. I attested to the official disclosure of what was being withheld under this identical claim. Based on this I believe he would be receptive to proof that they are withholding what they've already disclosed or agreed to have disclosed, as by the FBI, in books or by Congress.

If you can preserve the kind of relationship you have with Hall you'll not be worse off for it.

Thanks and best wishes,

Harold

Harold Weisberg

July 20, 1984
P. O. Box 34071
Bethesda, Maryland 20817

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Harold:

Many thanks for your letters of June 9 and 10, which I've been remiss in answering because I have been up to my ears in the good fight, viz., against the CIA. I have taken the liberty of sending a copy of your June 9 letter about the CIA's patterns of bad faith to my lawyer, Steve Doyle, since it is quite possible that it may give him some ideas.

As I think Jim Lesar told you, the CIA followed up on Judge Greene's November decision with a motion for reconsideration and Greene agreed to accept a Top Secret affidavit from them. God only knows what they said in it. With Steve's backing, I wanted to submit a filing myself to make some unmade points and from about May on spent every spare moment working it up, but before it was ready Greene ruled on the CIA's motion. A copy of his July 5 order is enclosed. He reruled on 109 of his 692 November rulings, reversing himself 64 times in the CIA's favor and maintaining his original rulings in my favor 45 times. It was about what Steve and I had expected.

Steve now intends to submit a motion for clarification with affidavit from me embodying all the points we had wanted to make before Greene ruled, but says it should seem routine and be dulcetly worded in order not to rile Greene (cf. fn 4 in the July 5 order). Since Steve is an excellent tactician, I am quite in agreement. At the same time, both sides are preparing appeals which I suppose will be filed by Labor Day. The CIA's, from what the responsible assistant U.S. attorney told Steve in a telephone conversation, will deal largely with its long-standing assertion that all sources and information identifying them should be forever exempt, whether the sources are alive or dead today and were witting or unwitting when they provided information. So stands the litigation at the moment.

I also enclose a copy of the note I wrote on three telephone conversations with the head of the FBI's FOIPA section. He struck me as a jolly hardnose.

Best regards,

Alan L. Fitzgibbon

Interview Note

James K. Hall, chief, FOIPA section, records management division, Federal Bureau of Investigation, 1645-1710, June 21, 1545-1620, June 22, and 1600-1605, June 25, 1984. By telephone.

FBI's current FOIA staffing and procedures. Hall has been in or head of --he did not make clear--the FOIPA section for the past three and a half years. The section now has a total of 212 staff, including 16 agents and 151 analysts. In recent months it has been receiving an average of 41.5 new requests per working day. Its current backlog is 5,000 requests, which are about evenly split between initial processing and "the floor," i.e., files which have been identified and copied and are being processed by analysts.

Though the volume of new requests varies with the season, the summer and turn of the year being a slack time, he thought it was continuing to increase. The wave of curiosity seekers wanting their own files under the Privacy Act of the late 1970s has abated greatly and the section is now receiving many more requests from scholars and journalists, whose sophistication about the FOIA is much greater than it once was. Six percent of the roughly 2,500 requests the analysts are now working on account for half of the work "on the floor." A West Coast journalist recently requested 170 subject matters, and Hall thought it would take his section "years" to finish that job. One problem in the initial processing stage is that the section has too few professional-level staff to analyze new requests and, in communication with requesters, determine exactly what is wanted so that materials can be located expeditiously. "We have plenty of GS-6s and -7s, but they just can't do that sort of thing." I asked if there were any possibility of a budget increase to cut the backlog. "No way. It's all been laid out for the next three years."

The section accepts any requester's statement that a person has died without asking for proof, though "there are some unethical people out there who invent deaths. We had a case like that recently and I think the person who was supposed to have died turned out to be still alive and I think is going to sue us." I asked if they did not have to presume death after a certain age. Hall replied that someone in the Justice Department had suggested presumptive death after age 80, but he did not agree: "Why, my father, a lawyer, still goes to his office five days a week and he's 89."

New processing standards. The FBI's present heavy reliance on (b)(7)(C-D), increasingly noticeable in its releases in the last year or two, started when "we got rid of Quin Shea and his harm theory just after the new administration came in. Why, one of Shea's lawyers once told us that in some cases we could delete a source's name on D grounds but had to leave in his address. That's the silliest thing I ever heard of!" As to C, I mentioned the hypothetical case of an airline clerk who sells a notorious criminal a ticket, later tells the FBI about the transaction on interview, and in so doing invades his or her privacy

no more than to reveal when and where he or she was at the times of the original transaction and FBI interview. I asked how that could be considered a privacy invasion. Hall replied that the clerk might be fired if his or her employer learned of the interview. (Hall's reasoning was curious since it is often corporate supervisors who lead FBI agents to employees, if any protection should be given to preclude dismissal it ought to be on D rather than C grounds, and he implied that the airline clerk might be dismissed even a quarter-century after the fact.)

Returning to D, I asked Hall to define its application more clearly. He said that in essence it applies to all sources since the FBI had "always implied" confidentiality to everyone it interviewed. He continued that his section now no longer releases FD-302s, an agent's first recorded interview note. This seems to have been true during the past year or two, but I noted that FD-302 information is frequently copied verbatim into the FBI's following sequence of communications--teletypes, airtels, reports, and summary reports. I asked about them. This question seemed to nonplus Hall considerably and he murmured something to the effect, "Well, we don't release that either." (Carried to its logical extreme, such a policy would preclude the release of all information-gathering documents as opposed to internal memoranda, or about 95 percent of FBI communications. It seemed clear that Hall had not thought this out.)

With the exception of the FBI's tipster hotlines in various cities, agents are no longer allowed to record information anonymously but must attribute it to named sources. This is because of past abuses: agents would attribute information they made up to meet their norms to anonymous paid informants, and sometimes they would keep the payments allotted for the informants.

The FBI's personnel office will provide information about agents' careers if given specific names to check but will not release the names of unknown agents who worked on a specific investigation since that would invade their privacy. Following Shea's departure it began deleting from its releases the names of all FBI personnel below GS-15.

The section has published nothing on its processing guidelines for the benefit of requesters. I said I had noticed changes in its standards in recent years, had often been curious about the changes, and thought other requesters probably were too. Hall said he had not noticed the same curiosity and hadn't "had a talk such as this--which I'm thoroughly enjoying--for at least six months. I assume you're taking notes." I said I was and would write up a file note after we finished talking. He voiced no objection and continued talking freely.

Giving out requesters' names. Since Caroline Nelson had told me in May that she could not give my name to Alan Block, the University of Delaware criminologist, without my permission, but a month later telephoned to say that under a new policy the FBI was releasing it to Stuart McKeever, a Westport, Connecticut, lawyer, I asked Hall what policy the FBI had on releasing requesters' names to those who ask for them. Talking quite vaguely, he said--more implied--that it had always

been the FBI's policy to do so but that such requests were rarely received. "The last one I recall, about a year ago, was from Congress." I forebore pointing out that Congress does not have to use the FOIA to get information from the FBI and dropped the matter because to pursue it would force me to reveal the discrepancy in how the FBI reacted to the Block and McKeever requests and I did not want to cause Nelson any problems. It was obvious that on this topic Hall was not commenting freely and fully. PA requesters' names are never released.

Silent former agents. Hall said that new agents sign an oath to guard classified information forever, as did he. He continued rather vehemently that former agents are not supposed to talk about their activities as agents, though he knew that many of them do, especially if those activities took place many years earlier. He kept stressing information the FBI's agents might acquire from foreign governments, which even in the 1950s was usually classified, and kept evading discussion of or deemphasizing information agents gathered in that period from ordinary sources in the United States. It quickly became apparent that he was trying to lead me to believe that former agents cannot legally talk about any information they gained during their FBI careers, not just classified information.

Dominican Activities file. I told Hall in our first conversation that Caroline Nelson had finished processing the last of the files I had asked for, Dominican Activities in the United States, at the turn of the year and that her team chief was said to have been reviewing it since then. I further said I had learned that the 33-section file is about exile rather than Trujillo intelligence activities during the period 1956-61, as I had first believed, and that my interest in the exiles is in their political and not personal activities. I continued that, after eight years of amicable relations with the FBI, I was greatly disappointed that it was taking the team chief so long to "review" the file, which I needed to wrap up my requests to the FBI for Galindez case materials. To protect Nelson I did not say that she had told me in two or three conversations that procedures in the section had changed greatly during the past year ("You wouldn't believe the controls and stats and quotas we have now!") and I would probably be very disappointed in the amount of information released in the file as a result of the new restrictiveness. Nor, as a test, did I mention that I had talked to the team chief by telephone only to get a brushoff and later had written Hall a mild letter protesting the file's long-delayed release and had received a brushoff reply over his signature obviously written by the team chief. He said he would check on the matter and let me know, which was the reason for our second conversation.

During our chat the following day Hall said he had talked to the team chief, who had told him that 17 sections of the file would be released in "about two weeks" (i.e., about July 6) and the remainder "several weeks later." The team chief was "having problems with two or three aspects" of the file and was conferring with Nelson. Since he made no mention of my telephone conversation with the team chief and later correspondence with him, it was clear that he remained ignorant of those communications. I then said that while I would be willing to wait "two weeks" for the first half and "several [more] weeks" for the second half of the file without suing him, I urgently needed to know what referrals had been made from the file in order to complete a new complaint to the Court against the CIA. "Oh, are you litigating with them? Are you suing us?" I explained that the FBI was a codefendant in the litigation only because it held CIA information in its files, and that seemed to content him. He said he would check and get back to me.

In our third, five-minute conversation Hall said the team chief would mail me a list of the referrals to the CIA from the Dominican Activities file "in a couple of days."

Special Intelligence Service (SIS) materials. At the beginning of the year I had had two conversations, one in person and one by telephone, with Tom Bresson, the FBI's deputy assistant director for records management and Hall's boss. One topic of those conversations was the FBI's SIS files. SIS was the FBI's specially constituted arm for collecting intelligence in Latin America during World War II, after which it ceded place to the CIA in Latin America when the latter agency was formed in the late 1940s. I had told Bresson that there were slight overlaps between SIS and the Galindez case, and that quite aside from that I was interested in writing about SIS after finishing Galindez. Bresson did some checking and reported back that another researcher had formally requested SIS materials, an SIS "control file" of 25 sections had been located, and its processing was expected to end around the middle of the year.

I explained all this to Hall (who remained completely silent the several times I mentioned Bresson, causing me to wonder whether he was doing so from bureaucratic deference, jealousy of or differences with Bresson, or annoyance that I had approached him rather than himself) and asked how the processing was proceeding. Hall said he thought a Carol Stroud was the analyst handling the SIS file and he would check. In our second conversation he told me that 11 or 12 of the file's 25 sections were then in "final review" in another FBI headquarters section, presumably legat liaison, and his own section was still working on the rest of the file. He predicted that it would take several more months to complete the entire job.

I asked what withholding standards are being applied to the SIS materials, whose age varies from 36 to 44 or 45 years. He said the same standards as for two- or three-year-old materials and implied that his section might be viewing the SIS documents even more dourly than much more recent reporting on ordinary domestic crimes because SIS agents got much of their information from those holies of holies, foreign governments. It was clear from comments Hall made about SIS and other FBI files that the FBI has quite abandoned any adherence to 28 CFR 50.8.

I further asked how a researcher might identify SIS materials beyond the control file and if Susan Falb, the FBI's recently hired historian, was doing anything to archive SIS materials. Hall said the control file might provide leads to other SIS materials, which would probably be organized not as an autonomous SIS collection but according to the usual personal and topical system. As far as he knew, Falb had shown no interest in SIS.

Legislation. Hall said he thought the various FOIA bills now before the English subcommittee in the House had no chance of passage in the current session of Congress. Enactment of any kind "certainly isn't something I'd put any money on," he remarked.

Impressions. Though maintaining a slight reserve as shown in such things as swearing only quite mildly and calling me "Mister," probably because this was our first contact, Hall was much more forthcoming and seemed much more lively and enthusiastic about his work than the bland and cautious Bresson. (I assume that if we ever meet in person, he will begin calling me "Alan" much quicker than Bresson did.) He was willing to discuss matters, such as his differences with Shea and his section's personnel problems, which other senior FBI officials would not, but in talking rather freely he sometimes seemed to be crawling onto a nicely swaying limb, as in some of the things he said about (b)(7)(C-D). Despite his joviality and seeming candor, Hall is patently one of the FBI's FOIA hardliners.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN L. FITZGIBBON,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY, et al.,

Defendants.

Civil Action No. 79-0956

MEMORANDUM ORDER

On November 10, 1983, the Court issued a lengthy Opinion in this Freedom of Information Act case, upholding most of the government's claims for exemption and denying others. The government thereafter moved for reconsideration with respect to Central Intelligence Agency documents, and it requested that the Court consider additional in camera submissions in connection therewith. Plaintiff filed an opposition, pointing out that the CIA had already had three opportunities to present its case; that it had made lengthy submissions every time; and that, for various reasons, it was not entitled to proceed on this path once more.

Although these arguments could have caused the Court to deny the motion for reconsideration without further substantive

inquiry,[1] the Court, in an effort to avoid any possible damage to legitimate security interests, considered in detail the material submitted most recently by the agency for in camera inspection, as follows.[2]

First. In its most recent affidavit, the CIA concedes that some of the sources it wishes to protect may have been relatively innocuous or may have provided only insignificant information, that others may be dead or otherwise safe from reprisals, and that still others may not care whether their relationships with the CIA are revealed. Instead, the argument is made that reference to any and all sources, witting or unwitting, actual or potential, living or dead, must be excised on the theory that everyone must know unequivocally that source identities will never be revealed. In short, the suggestion is that, with respect to sources, the Court is bound under the FOIA by the CIA's determination not to release any material concerning sources, and that it may consider neither the "practical necessity of secrecy" nor the issue whether unauthorized

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1/ Notwithstanding such special details as the submission of an affidavit from the Director of the CIA and the alleged recall to service for this specific review of a retired CIA officer, most of the materials now submitted could have been presented in connection with the earlier reviews.

2/ The Court has also reviewed again the issue discussed at pp. 18-20 of the November 10, 1983 Opinion regarding a long-ago CIA station. Nothing essentially new has been adduced except the claim that there were errors in the pertinent U.S. Senate Report. The Court's prior ruling regarding these deletions accordingly stands. The requested exemption is also denied on the same basis with respect to document No. 230.

disclosure "reasonably could be expected to cause the requisite harm." That is not the law. See Sims v. CIA, 642 F.2d 562, 571 (D.C. Cir. 1980); Sims v. CIA, 709 F.2d 95, 100-01 (D.C. Cir. 1983); Lesar v. Department of Justice, 636 F.2d 472, 481 (D.C. Cir. 1980); Miller v. Casey, 730 F.2d 773, 776 (D.C. Cir. 1984).

All the documents are well over twenty-five years old, and many of the sources -- to the extent that they were "sources" at all, as distinguished from individuals whom the CIA may have considered recruiting for that purpose -- have long ceased to be sources. Additionally, some of the individuals are dead or residing nowhere near the Dominican Republic,[3/] and much of the information they provided is innocuous. To accept the CIA's blanket argument under these circumstances, therefore, would be to grant to that agency a wholesale exemption which only the Congress can confer.[4/]

As indicated supra, the Court has nevertheless once again plowed through the documents, and where it appeared on the basis of the new data that, notwithstanding the passage of time, some injury could reasonably be said to come to the national security, to the CIA, or to the individuals involved, the Court upholds the claimed deletions. This is done with respect to the following

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3/ Moreover, the Court takes judicial notice that, after the assassination of Rafael Trujillo, that country had a complete change of regime.

4/ At least from the limited perspective of the use of judicial resources, such an exemption might not be a bad idea in view of the laborious process involved in never-ending reviews and redeterminations.

documents in the "source" category: Nos. 37, 39, 73, 108, 127, 134, 141, 142, 165, 187, 189, 223, 231, 245, 288, 292, 322, 323, 332, 334, 361, and F-2.

The CIA's request for exemptions is rejected with respect to the proffered deletions in the following documents, generally[5/] for the reasons indicated:

1. Source is a private citizen who provided a bit of information many years ago or his identity is already public knowledge: Nos. 88, 94, 138, 151, 154, 190, 200, 363, 365, 383, 421, 425, F-363, F-365, and S-25.

2. The identity or the whereabouts of the source are not apparent from the document, the source is dead,[6/] or he is only a potential source: Nos. 9, 74, 117, 162, 221, 222, 269, 289, 335, 420, 424, 429, 458, 465, 486, F-118, F-122, S-45.

3. No CIA objection: 14, 133, S-44.

4. Cooperation with U.S. agency source in United States: 149, 478, 483, F-237, F-337, and F-338.

Second. The CIA's arguments on deletions concerning methods is a carbon copy of its views with regard to sources. Although conceding that it is well known to everyone, including foreign intelligence services, that the agency uses such ordinary methods

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5/ In order not to impair security in the event that an appellate tribunal should disagree with this Court, the reasons are stated in general terms.

6/ With respect to one dead individual, the request for exemption appears to constitute primarily an effort to avoid embarrassment to the agency. See No. F-122. Embarrassment seems to be the basis also for No. F-237.

of gathering data as the surveillance of buildings, the examination of airline manifests, and the like, the agency states that security would be damaged by a revelation that it engaged in such routine practices twenty-five years ago. In short, the claim, here again, is one for the complete exemption from the Freedom of Information Act of any data concerning methods, no matter how innocuous.[7/] Moreover, it bears repetition that we are dealing with practices that are twenty-five years old or older. The CIA is, in effect, asking for an exemption from the Freedom of Information Act which the courts have not sustained,[8/] and which only the Congress can provide.

The Court has reviewed again the relatively few instances in which it earlier rejected the CIA's exemption claims with regard to methods, giving substantial deference to the CIA's judgment. On the basis of that examination, the Court upholds the following additional deletions regarding methods in the following documents: Nos. 119, 124, 497 (par. 2 of covering memorandum), and 498.

Third. In its November 10, 1983 Opinion, the Court sustained most of the deletions which would have revealed CIA

7/ The suggestion is made in the CIA's papers that it would be damaging to national security to reveal novel technological means for gathering intellingence. In not a single instance has the Court rejected a CIA exemption claim where such means were mentioned or alluded to in any way. The information ordered revealed concerns the most ordinary, the most routine types of methods.

8/ See Dunaway v. Webster, 519 F. Supp. 1059, 1070 (N.D. Cal. 1981).

relationships with foreign intelligence services. The only exceptions were those where the particular document, paragraph, or sentence does not, either explicitly or implicitly, disclose the liaison. In addition to providing further particulars with respect to individual deletions, the CIA contends that in this category of foreign liaison particularly, all doubts should be resolved in favor of nondisclosure because revelation of such cooperation may cause allied or otherwise helpful intelligence services to refuse such cooperation in the future.

The Court is impressed with that argument, and it has reviewed the material once again with the significance of that argument in mind, as well as on the basis of the newly-furnished information.[9/] On this basis, a number of deletions which were previously rejected are now being upheld as follows: Nos. 34, 125, 157 (par. 1), 163, 191, 219, 235, 268, 318 (par. 5), 444, 448, F-264 and F-360 (p. 9). However, the remaining deletions involve exemption claims on account of a liaison with a foreign intelligence service but where there is no reasonable basis for such a claim (e.g., the alleged connection is extremely tenuous or non-established or the reference is to an ordinary source rather than to an intelligence service) or the liaison is not

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9/ To the extent that the connection between the agency and a foreign service had not been established in the CIA's prior submissions, the Court could have rejected the current claims entirely.

with a foreign but with a domestic policy agency) and with respect to them the previous ruling accordingly stands.[10/]

Fifth. In its November 10, 1983 Opinion, the Court referred to relationships with the Basque government-in-exile which existed in the 1950s.[11/] The CIA argues on various grounds that the Court should honor the exemption claims with regard to all such contacts in spite of their age and the disappearance of that "government" a long time ago. Galindez, the individual about whom plaintiff is writing a book, was the New York delegate of that body, and the CIA's position, if accepted, would have as its consequence that plaintiff would be denied significant material to which he is otherwise clearly entitled under the FOIA. Given the mandate of that statute, the Court is not prepared to deny plaintiff that material absent a substantial basis.

The Court is prepared, however, to order the deletion of the names of any individuals in this general category who might conceivably suffer adverse consequences from their former associates or others if their relationship with the CIA became known. On that basis, the Court upholds the exemption claim with respect to deletions in the following documents: Nos. 7, 16, 52, 53, 66 (4th par.), 100, 120, 494 (pp. 4 and 5), and F-354 (p. 3, lines 3-7).

10/ It is to be noted that much of the withheld material is particularly pertinent to plaintiff's FOIA request. See, e.g., Nos. 506, F-205.

11/ Some references which the CIA would withhold predate even that period.

Sixth. As concerns finally[12/] the category of privacy claims, the CIA has offered nothing in its current affidavit that was not previously considered by the Court. In fact, few new objections have been made. The Court has considered such claims as are embodied in the new papers submitted to it, and upon further reconsideration, it sustains the CIA's position with respect to Nos. F-212, 240, 241, 242, and F-359.[13/]

For the reasons stated, it is this 5th day of July, 1984,

ORDERED That defendants' motion for reconsideration of this Court's Opinion of November 10, 1983, be and it is hereby granted in part and denied in part.

Harold H. Greene
United States District Judge

12/ With respect to a "Miscellaneous" category, the Court has also again reviewed the pertinent materials. Where the Court previously ordered the release of information withheld on a particular rationale (see, e.g., Opinion of November 10, 1983 at 45), other deletions (e.g., methods and employees) may continue to be maintained. In addition to deletions previously sustained, the following may also be withheld: Nos. 115, 132, F-16, and Group M(22).

13/ While portions of the last four documents were withheld under the privacy exemption, they are now claimed to be exempt because they identify a source. On that basis the claim is sustained.