11/25/69

Dear Gary and Paul,

Sorry I can't send a copy of [illegible]'s letter. The copy - have it much too pale. When - get a clear one I will. The draft of one reply is attached. Of course, I do not know how it will suit Bud, who may change it as he desires. I drafted a reply Thursday, in his office, to the rejection of the Ray material I'd requested. - have no copies yet.

As soon as Bud goes over my 1969 archives file, we'll make a final decision on what and who we'll sue. I suspect it will be DJ, SS, Navy and Archives for whatever we decide upon. You are both familiar with what I have sought of the Archives and Secret Service and been denied, so I'd welcome any suggestions along this line, what to include.

It seems that the more I push the more they suddenly find, so I want to push on what we should and what Bud agrees to. But I want to propose to him and try and persuade him to agree to at least a stout minimum. We'll be heavy on the medical stuff. In no way identical with John. Mine is a different approach and mine will be different reasons.

I hope you will find no need for advertising the imminence of any suit, for we went no attention to it and as little preparation to fight it as making a good record permits.

In the attached are several references to Curry's book. When you get and read it, if you feel other than as I do, please argue with me. You might note what you see that is relevant, for I sped through it and may not have marked some of the cases. There is, as Mary says, much error in it, but I'm wondering if all is error-wther in some cases the Warren/FBI stuff may be wrong instead. ...The old coot drew heavily on the available books, I believe...In his public appearances he has gone farthur, saying there is no proof Oswald fired a shot. I've been unsuccessful in getting a transcript, but it isn't vital.

Best,

11/23/69

Dear Bud,

Attached is the draft of a suggested reply to the aptly-named Kleindienst's 11/13 letter. You may do, of course, as you please with it.

Your busy little girl was too busy to make me a couple of clear copies of his letter. The one she sent me is quite pale, so pale I cannot copy it. I would like to send Jim and Schoener only copies of it for such suggestions as they may make, for they are both pretty sharp on this. Not for the letter, but for the future.

Nice story in Potomac, scholar.

Curry's book at three points at the very least makes clear he wanted nothing from the FBI but to be left alone. He complains at least twice about their insistence on having the physical evidence physically in their possession, at least once about its non-return, and at least twice about even their presence at the LHO interrogations. He makes other snide remarks, too. I think the Dallas boys have begun to tumble to what the feebs did to them. But in any event, the non-lawyer in me tells me the combination of this, the President's directive to the FBI to make a report that was to have been madepublic and the lack of jurisdiction (Curry even complains about this, too) eliminate any possibility of claiming "law enforcement purposes".

Shifting to what in an earlier letterx I called the "Gene" files, certain that a Harvard Law magna cum laude would readily understand this ellipsis, would it be no less cute to shift to the other name and call it out "M" file? When I finish the next immediate chore, responding adequately to two Archives letters and once from the Secret Service, I'll dig into that. My glances tell me his claim here is doubly spurious, first by ringing in the FBI, which we didn't, and then again alleging "law-enforcement purposes". His own Department certified most of this file for opposite uses, in public, in court, and the certifications are attached. I am not suggesting you now tell him this, for I'd rather see him xxxx face that in court. It is for your mental noting. They're naked, and not pretty. I hope we get prompt letters xx in response to the two we did Thursday so we xxxx can full-steam the separated one. The current context is the best possible, what with Agnew and company (the company including little servant himself).

I hope I can have the "M" file done with by Friday, and if it suits you I'd come down with it then. Perhaps by then you will have caught up on the rest of it.

Don't forget the editor. Right now would be a very good time for him, too. All we need in preperation is a xerox of the COUP addition....Phone me about Friday. There is a holiday coming (unless I have to phone you. But we really have to get together, for I've one of the very best goodies for you, maybe the very best yet- and just where wex are working.

Sincerely,

Harold Weisberg

11/23/69

Dear Bud,

Suggested draft of further answer to Kleindeinst's 11/13/69:

This is in further response to your letter dated of November 13, 1969.

You claim of the "memorandum of transfer" of April 26,1965 something new in the series of changing explanations of why it is denied my client, Harold Weisberg, "that disclosure of such a memorandum would constitute a clearly unwarranted invasion of personal privacy." After all those millions of words of the published Warren Commission volumes and the countless millions of a personal nature freely (and properly) available in the National Archives? By what means does this become an invasion of privacy when those other thousands of cases are not?

It is Mr. Weisberg's belief that this is in effect, a government contract, albeit an illegal one, and thus cannot be withheld on the ground it is "private". This memorandum relates to the private disposition of public property and on that ground also looses any claim that might be made to privacy.

However, if your claim were to be taken at face value, it is clear the government has twice held exactly the opposite and has, in fact, made public use of this memorandum of transfer. In the fall of 1966 it was communicated to another writer, who so informed Mr. Weisberg. And your own Department made use of it in the so-called "panel report" on the autopsy. It cannot be selectively "private", at federal whim.

We therefore renew our request for this public paper.

You claim 100% of the other items Mr. Weisberg has requested "are not subject to disclosure in that they are part of investigative files compiled for law enforcement purposes". Here you are misinformed, for they were compiled for the Warren Commission, of which the FBI was an adjunct. The Warren Commission has absolutely no "law enforcement purposes" or powers. As a matter of fact, even prior to the establishment of the Warren Commission these files were not collected for law-enforcement purposes, as the testimony of Director Hoover before the Warren Commission makes abundantly clear. They were initially collected for purposes of making a report to the American people.

They were not collected for law-enforcement purposes, additionally, because there was no federal jurisdiction involved and they were not collected for the Dallas police, which alone had jurisdiction. (Bud-take note, but not for letter-Curry's books is very good on this.) Moreover, were these things not true, the government, again, has used them for publicity purposes, which have nothing to do with law enforcement. These files have been made selectively available to other writers whose writing, it was known, would be congenial to government publicity desires.

Furthermore, the government has permitted the publication of documents idential with some Mr. Weisberg seeks.

In the case of the spectrographic analysis of the bullet and fragments alleged used in the assassination, because this is among the many things that would seem to have been covered by the Attorney General's order of October 31, 1966, Mr. Weisberg asked for it at the Archives. In his presence the FBI was phoned and asked about it. The FBI replied that this was in the proper files. It was not. Further, this spectrographic analysis was used by the Warren Commission in its hearings, therefore it cannot on this ground be suppressed. And in addition to everything else, two other FBI spectrographic analyses of exactly this nature have been published. It cannot hold that in two cases there were no "law enforcement purposes" but in the case of that one Mr. Weisberg seeks there was without any jurisdiction. For these and other reasons, including that it cannot be both ways, we renew our request for these documents.

To cite another specific example, that of Commission Document 75, folio 501. This documents is not withheld under any of the guildines, for none is applicable, nor is it or can it be withheld for any claimed "law enforcement purposes". It is withheld solely to prevent and embarrassment to the government, a reason rather specifically denied by the Act. If you read the documents personally, I have little doubt this conclusion will not escape you.

As a matter of reality, the only reason any of these documents, to which, under the law, Mr. Weisberg is properly entitled, are denied him is because they

can be embarrassing to the government, are not consistent with its conclusions and interpretations, or say the opposite. This is outside the provisions of the Freedom of Information Act, is contrary to its intent and is specifically prohibited by it.

You may have no personal awareness of it, but the refusal of your Department to comply with the law in response to Mr. Weisberg's requests is so monolithic it was not in many months responded to his request for access to the transcript of a public trial in the United States. and for a copy of a press release

As does my client, I deeply regret this absolute refusal to comply with the law which is so clear in ~~authorizing~~ granting Mr. Weisberg's access to that material he has repeatedly requested ~~, in large part,~~ ~~his requests have been entirely ignored, including one for a press release~~. It seems to us particularly inappropriate when various spokesmen for the government are loudly protesting the alleged withholding or misinterpretation of news by writers.

We hope, quite sincerely, that you will reconsider what we regard as the pervading error of your response ~~of~~ dated November 13 and will promptly, if belatedly, provide copies of what he properly seeks to my client.