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4/30/79

Dear Mark,

I did not reply to your 4/11 earlier because Jim said he was suggesting that you ask for more time. They I laid it aside for a local student who is working in my CIA files to read for any suggestions she might have. Today is the first time she's been here since the and she had no suggestions.

Your five points raise sixth - good faith.

You show no intent to challenge the b2 claim. I think this is a very serious oversight and you should, emphasizing the word "solely." For some reason the FBI also is now and for a couple of years has been big on b2.

When such records disappear it is hardly "solely" of interest to the CIA.

Why it is even of interest to the FBI and it was of interest to KGBA.

If you are in a position to throw anything new in an important thing is their continuing stonewalling on the FOIA requests. I can give you an affidavit saying they have not complied with my 1971 one and when I wrote about the appeal after a year said they were still considering it. They stalled on the overall request on the ground that it was voluminous and then refused to comply with narrow requests on the ground that they would be included in the overall request.

When I asked for copies of the records they gave Epstein for Legend they refused, claiming this required them to do research.

Why not throw in Epstein on their making Nosenko available, via Angleton's words?

I can provide a KGBA letter encouraging the FBI to help and trust Epstein.

If you are up this summer maybe you'd like to browse a bit?

Because the KGBA. "I am coming back from a trip and I have to meet the bus. good luck in school - and all else.

from Mark Dean 4/11/79

Dear Arnold,

Enclosed is a memo I hurriedly cooked up during Spring Break. I hope you have time to take a close look at it and would appreciate your comments.

I am now preparing my appeal brief, which will not be what I had hoped because of upcoming exam pressures. I have 5 grounds of appeal

- ① use of a vacated order as precedent
- ② failure to allow discovery
- ③ failure of Agency to show there were no segregable portions
- ④ excessive weight given to the agency affidavit
- ⑤ failure of the govt to provide the information required in Laughlin and Mead

I'll need to talk to Jim before I finish, especially on the problem of what relief to ask for.

(OSR)

MEMORANDUM TO: Interested Researchers

MEMORANDUM FROM: Mark A. Allen

DATE: March 14, 1979

SUBJECT: CIA Item #563-810

On September 22, 1978 CIA Item #563-810 first became available to researchers when it was included in the daily press release of the House Select Committee on Assassinations. The document is an internal Agency memorandum dated February 20, 1964 which indicates that as of the date of this memo 37 documents which were officially recorded as being included in Oswald's 201 file could not actually be found in that file.

While any missing CIA documents on the Oswald case might potentially be important, they would particularly be so if they were pre-assassination material. The memo gives no direct indication of the dates of these missing documents, although in paragraph #1 there is perhaps the suggestion that it is post assassination material. Paragraph #1 states: "The actual machine work of this type was begun in 1963, but a few items of previous dates were also recorded."

Nevertheless, it is very intriguing that 8 days prior to this memo, on February 12, 1964, Warren Commission General Counsel J. Lee Rankin wrote CIA Director John McCone requesting the entire CIA pre-assassination file on Oswald. It is also interesting that the 2/20/64 memo suggests that some sort of review of the Oswald file is anticipated. The memo states that a machine listing of documents in Oswald's 201 file was requested by the recipient of this memo (name deleted), but does not indicate that a comparison between the machine listing and the documents actually found in the file was similarly requested. The fact that a comparison was made suggests that some sort of review of the file was going to be made.

As recently as 1977 the CIA had refused to release this memo to Bernard Fensterwal when he sued the CIA for material on the JFK assassination. In refusing to turn over this document the CIA told U.S. District Judge John Sirica:

"This document is an informal note recording the state of the Oswald 201 file as of 20 February 1964. The note makes it clear that the volume of documents accumulating is considerable and that a number which had been logged to the file had not yet been filed in it as of that date. There is no discussion of the substance of the file, merely the administrative workings involved in getting documents into the file." (Document Disposition Index, page 139)

The CIA went on to claim exemption (b)(2) of the Freedom of Information Act which allows the withholding of material if it is "related solely to the internal

personnel rules and practices of an agency." Now that the document has been released we can see just how misleading the CIA's document description and exemption claim was.

The CIA's description of this document to Judge Sirica may be an accurate explanation of the underlying circumstances surrounding this memo, but it is not a fair representation of what it states. The document does not "make clear" that the volume of documents accumulating is considerable -- since when is 37 documents considerable to a giant bureaucracy like the CIA? The document does not "make clear" that a number of documents that had been logged to the file had not yet been filed in it as of the memo's date. The document gives no explanation about the discrepancy between the recorded documents and those actually in the file. Finally the CIA's statement implies there is a discussion of the "administrative workings involved in getting documents into the file." Yet there is nothing in this document that would fairly qualify as such a discussion.

Furthermore, the innocent explanation suggested by the CIA in the Fensterwald case (i.e. that the CIA had not had time to actually place the documents logged to the file into the file) apparently did not fully satisfy the H.S.C.A. Otherwise this document would not have been used in the questioning of Helms. (I am told Helms gave a non-substantive response).

If this document indicates the disappearance of pre-assassination Oswald material, it strongly suggests that the denial of this document to Bud was part of a continuing coverup. And even if the CIA's innocent explanation is essentially correct, this entire incident suggests that the CIA is withholding material from researchers simply because it might give us the "wrong idea."

Mark Allen

3/14/79

20 February 1964

MEMORANDUM FOR: Chief,

SUBJECT: Documents Available in OSWALD's 201 File

1. A machine listing of documents officially recorded as being in OSWALD's 201 file was requested and is attached. The actual machine work of this type was begun in 1963, but a few items of previous dates were also recorded.

2. A comparison of the documents physically available in the 201 file and those recorded as being in the 201 file has shown that 37 documents which should be in the 201 file are not available in it. This total is made up of:

- 2 dispatches
- 7 memoranda from the FBI
- 1 CSCI
- 2 State Department documents
- 25 cables.

3. Machine inquiries for the location of these documents have not been made.

Document Number 563 810

for FOIA Review on

JUN 1975

Handwritten notes:
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