

Dear Dennis and Gerry,

9/15/95

On rereading your paper it is not ^{leds} impressive. I did see a few things, minor thing, - should have called ~~yo~~ your attention earlier and I was interrupted when half-way through it by what represents other institutional failures, those that permeate and have in one instance nothing to do with the assassination or its investigations.

I did not start reading it until yesterday morning because I am fresher in the early morning and because there usually is no interruption that early. But when half-way through it I stopped at a little before 3 a.m. to have a light breakfast and to see what TV news has then.

A featured item was that the ^odefense in the Simpson case was going to call FBI Lab agent Whitehurst as a witness because he had been ^ocritical of the work of the Lab in many prosecutions in which it angled its reports, etc.

Well, that reminded me immediately of the undenied criticisms of the FBI and its Lab in NEVER AGAIN!, along with FBI pictures establishing the legitimacy of what was attributed to Whitehurst. But lo! there was the FBI denying the truth of those criticisms and saying it had reviewed 250 cases and found no legitimacy for any such claims. That in turn reminded me of the many time I put myself under oath and subject ~~to~~ to the penalties of perjury if I ~~led~~ to attest to FBI perjury in those cases.

So, I started to get what I could use in writing Simpson's lead attorney, Johnnie Cochran. The letter grew as I thought and had time. I am mailing you copies when I leave in about an hour for my early-morning walking, blood testing and p.t. without the attachments to it all of which you have. I did send it to Cochran by FedEx, its fastest, to be delivered in LA this morning before 10:30 a.m. But later the news was that he had decided against calling Whitehursts.

That was the third day of mention of Whitehurst and his criticism of the Lab for which he worked. So I was immediately reminded of how hurtful to getting truth and fact to the people it was that Jim Cesar still had not held the press conference on the book four months after he promised to hold it. I decided against calling him, knowing his practise of working late, and decided to call the news offices of ABC, CBS and NBC in Washington about the time their early morning Network news shows are aired. I delayed calling until then on the possibility those news staffs might be engaged in preparing segments to be aired then. But I did get their supposed numbers from the DC information operator. The number I was given for ABC got an intercept reporting a wrong number. The number I was given for CBS was that of a federal agency. And the number I was given for NBC was that of its Washington station and it answered with a recorded announcement of buttons to push for all the world as though dial phone systems no longer exist. I checked with the information operator, by chance got the same one and got all the same numbers as correct. That took care of that. But imagine network news organizations

that cannot be reached through the phone system and have done nothing to correct that!

So I left to do a little grocery shopping that gives me a half hour or more to walk with the assistance of a grocery cart. It gives me more stability than my cane. On return at close to six, and this was before my phoning started, I had the morning papers. The Post had both a trial story and a Washington story on the complaints against the FBI and its denials. Later I phoned the Post.

At about 7:30 I phoned Cesar at home. When he answered the phone I asked, "Are you wide awake?" He sounded as though I had awakened him and I did want him to be fully alert. He said he was. I told him that calling attention to NEVER AGAIN! although late could have topicality and could get some attention. He said he had written me why he had not held the press conference, implying that he would not because after five months he has not read the book. So I told him I regretted that to him nothing had any meaning other than the multitudinous theories which I referred to as "shit" and I hung up. I continued preparing to mail to Cochran. That required some copying. Not very long thereafter Jim^W phoned to say he had not been wide awake and to repeat what he had said earlier, my best shot was through Cochran. Who has no interest in attracting attention to the assassination investigation and who, if he ever saw what I sent him, could not for at least two days, after the end of court ^{tomorrow} yesterday at the earliest.

I asked Jim^W if he knew anyone in the media he might phone. He thought of Reuters and Larry King Live. Later he phoned again to say he had spoken to Reuters and to tell me what at Larry King Live to write. I'll mail that soon. Without hope that with the inevitable delays and my inability to get to the studio it will mean anything.

Jim still does not realize that if he had held the press conference and given out the copies of the books I did get him the media would have had, those who had it, an immediate knowledge of this FBI practise of mendacity in lawsuits.

When he agreed to hold the press conference it was with the understanding that he would say he was doing it for me because I cannot get to Washington and that other than what I wrote out for him, which was narrow in focus and fully documented with documents he would hand out, all he had to say I suggested, that he could refer all questions to me with the explanation he did not have the answers and I did and he was holding the press conference for me because he had been my FOIA lawyer. That simple formula he still seemed not to understand ^{after four months} yesterday.

There is no way of knowing how well the press conference would have been attended or the degree to which any of the media might recall what it then learned or ^{if they} ^{would} have read the book, but is it clear that absent a competitive situation, one in which any ignoring the story would be embarrassed by any use of it, there is no possibility for any attention to any assassination information.

In any event, that possibility was lost. That such situations arise I had told

Jim often over the years and I had more recently with Richard Gallen and German Graf. That they did not use the attention to what "Whitehurst" said says all that need be said about their intentions to make any effort to sell the book they published.

This gets to what I'll return to as I begin to run out of time.

After taking Lil for some necessary shopping I did phone the Post. The reporters who signed the Whitehurst story are Pierre Thomas and Mike Mills. I asked the operator for either of them and was connected with the financial desk. That surprised me but it turns out that Mills, a financial reporter, was used on that story. He seemed quite interested but he switched me to Thomas. He also appeared quite interested, said he was, and asked if he could call me back. He never did. I suppose that once the Post knew that Cochran was not going to call "Whitehurst" he had all the excuse it needed for ~~xxx~~ ignoring the ^{actual} FBI story, what should have been one of continuing interest and great significance. It was, after all, an internal allegation of ^{partial} ~~subject~~ practises in criminal cases. But it got no attention on the 3 a.m. news programs this morning. ABC, in fact, went back three days to repeat the Los Angeles DA's attack on the judge as partial, the judge who has been partial for them and has tolerated innumerable abuses from Marcia Clark. He had just levied a fine on her for being late without calling him to tell him.

So, with a long and public and official record of the FBI's many corruptions of justice in assassination cases and with this fine news peg to hang that on, no mention.

This gets to what you do not have in your paper and should not have in it but I think you should be aware of, the failures of the critics. I exempt because of their time only Meagher and Roffman. Where I address this in Inside, with selections, those selections are long and detailed. Including some of my own. In varying degrees we did all fail. Without having stopped to think this through as I prepare to lay this aside I think that probably the greatest of these failures is the devotion to made-up theories none of which is proven or provable and most of which are nonsense or worse. These serve to confuse the people even more and to protect the official miscreants of the past and of the present. There are many possible explanations for what the critics have ~~and~~ done and do and I do not try to go into them. In summary I suppose that the two most common explanations are ego and subject-matter ignorance.

I'll not be able to resume this for a while because by the time I return from this morning's routine we'll have to prepare for going to Hood for the welcome to the new ~~Ex~~ ^{VP} president. But I have marked a few places in your fine paper I'll return to. Jerry will be here over the weekend and if the ~~xxx~~ second copy Dennis sent me is for ~~it~~ him I'll give it to him.

Later 9/15. As we started to get ready to go to the official induction of Hood's new president Dan Alcorn phoned. He ^{is} Fensterwald's law partner and is on the AARC board. He was concerned about the FBI getting away with lying in saying that it did not neither slant Lab evidence or worse. And that its own internal inquiry of 250 cases proved it. He ^{wanted} help from me on that. With the whole AARC unable to come up with what he wanted or needed. I told him that if Jim had ~~done~~ what he'd promised to do and held that press conference on ~~NEVER AGAIN~~ NEVER AGAIN! all he ^{now} needed would have been known to the media, at least those ~~he~~ who got copies of the book and of the documents ~~if~~ I'd give Jim to give out. I said I do not care whether he uses the book or not or uses its content without credit to it, which he is welcome to do, ~~that~~ that remains his best shot. I also said he would do well to hold a press conference not on the book but on the FBI's lying and give the media copies of the book calling to its attention the FBI's ^{own} proof that it perjures and distorts and makes up and lies about evidence and I gave him the page citations from a copy of the index. I also explained some of it to him. That was necessary because none of those experts knows about or cares about fact. I also told him about the FBI pictures in it that make the case against the FBI on this. What if anything he'll do I do not know. Nor do I know what he waited for, this being the fourth or fifth day of that matter in the news.

When he got onto the ARRB I asked him what they had gone for that has a relationship with the assassination and he had no ready answer. I told him that I'd told Jim that they are using the requests made of them to make a phony case of doing all they can when they have refused to go for a single record with a direct relationship to the assassination. I gave him example. He said nothing so I said that all the crazy theories are self-defeating and giving the ARRB an excuse for whitewashing, which it began intending to do. As example I asked him what Michael Paine has to do with the assassination, those records being some the ARRB ^{now} demands from the FBI. Or all those CIA crytonyms in Mexico City, or the filing numbers. He of course had no answer. But I doubt it will make any difference with him or with any of them. He does see that an unusually good opportunity was missed. At least he said so.

Now on your paper, on p. 15, line six, I think a source note or two should be added. Tague testified in July and while it is true that they were then wrapping up their work, that is also when they took a great volume of testimony that had not taken earlier when they should have. In addition to Tague, even Zapruder. Also a source note in the third paragraph.

One page 16, line 2, "used" instead of "established." That list had been long established, was not established then, and later in that line I'd add "mostly" before "journalists" because that was not a journalist list.

I see I skipped page 8. "typo 3rd text line up, "196a4:x."

10:

Footnotexxxxx page/ "failure to obtain the death certificate" may not be correct. It may be worse. I do not know when they got it. I found it in a file in which it did not belong, what was sent to be printed, as it was not. Perhaps failure to "use" will be OK.

Page 17, top line: If Boggs was a lawyer than all were. I do not know but any bio. should tell you. This occurs later, too, I think

Page 18, line 10, you refer to Sibert and O'Neill and their not testifying before the WC. Do you want to add HSCA and then refer to what HSCA suppressed in NA's Afterword?

This is all. I'm sorry I did not catch it earlier. I should have.

Going back to Alcorn, I told him I believe there is little chance of any good story exposing the FBI outside a competitive situation, one in which the different media elements might wonder how they'll look if they do not use what is made available. I gather however, that he intends to talk to individual reporters. Well, maybe there is a paper of another element that is not afraid of what the FBI can or might do to it if ~~he~~ alone carries such a story. I hope so. No such FBI complaint or pique flows from a competitive situation.

I'll read and correct this tomorrow. I'm tired and Lil is napping. The Alcorn and two other calls had us a little late and there was nobody who could get us into ~~the~~ the inside luncheon where we were to be. They cut the elevator off on that stop so we had what for us was a long walk to the picnic area. It was a bit much for both of us. I was able to bring the car to Lil when we left.

9/16 a/m. No record of any media or other calls on our Caller ID while we were gone and we got none after returning. But I decided to write Lardner and to needle Graf. Who has yet to give me any accounting of Case Open published 17 months ago while he intensively promoted the Newman bad book and some bad coming ones including Livingstone's Killing Kennedy all over again. And Walt Brown's saying the Dallas police were the killers.

Healy