

Dear Alan,

7/1/85

Your 6/29 and enclosed account of the so-called "verbal Vaughn" at the CIA are interesting. This is so it will not get overlooked because once again I am my own lawyer, once again because not without reason Lynch is scared and of course doesn't admit that even to himself. I've almost completed my draft of the Rule 60B motion I'm filing pro se and after lunch will get back to it. My mornings are wrecked by daily walking therapy, on which during my frequent rests I get through the papers anyway.

It isn't feasible for me to try to use a computer now, at my age and with what Jim into and can't get to, but how wonderful it would have been years ago! A friend who has done one scholarly piece (South Atlantic Quarterly, Duke) on one set of FBI records in the King case is now doing a second one, second set of file, on his new computer and, I hope, will eventually expand both into a book, a case study of the FBI's domestic intelligence operations in "amphibia. And I've just helped a doctoral candidate who raves about the usefulness of his new computer in his thesis. Which I've encouraged him to expand into a book. So I'm aware of their value.

It was never possible for me to undertake what you are doing with your Galindez material. I tried to do it with duplicate files but in the end had to give that up. I've some 60 fairly full filing cabinets now! And instead of all the scholarly notes, which most readers ignore and too many scholars phony up, I've been using and will, I hope, again use extensive facsimile appendices. More than 200 in last book. In my work I can miss an awful lot and still have much too much, I've that much now. And I've not much energy now.

I think I told you all I remember about the miserable Stanley Roas, so wretched a person I recall him from my OSS days, when he turned me off completely. He tried his usual dirty and irresponsible stuff during the Warren Commission days, misusing a Hearstling in Vienna and an insane man named Gongora in the US. In an FBI report, if you have any use or need. And, typically, the Buds of the critics went for the obviously irrational ravings of the insane man!

I don't hear from Jim, I think, that Bud rather liked the CIA's dodge of the verbal Vaughn, I suppose because Bud is about finished trying to use FOIA. We had dinner with him, pleasantly, two weeks ago tonight but I don't recall that he mentioned it and I have no interest in helping the CIA suppress. The philosophy of the Vaughn indexing rules out having it verbal, I think, anyway. It leaves no record for others, for history, or to which the CIA can later be held to account. And they lie as a manifestation of what they regard as patriotism.

While I'm no stranger to official corruption the totality of mendacity in my field offices case, the one Jim messed up so we would both be made subject to improper sanctions, is unprecedented. After the record at district court closed Jim started getting a great outpouring of relevant records in the Mark Allen case. He sent me some, more than enough to include a selection in my pro se en banc move, which not even one of the so-called liberals voted to consider. And after that it kept coming. Lynch agreed some time ago to use it in a separate motion, which rather surprised me and is quite opposite what Jim had represented as his and Hitchcock's (Nader) intent. Once Mark had agreed, I prepared the stuff and sent it to him. He was silent until after Smith handed down another Memorandum and Opinion. He then changed his mind. But in fairness to him, he had agreed to represent me only on the appeal, and when I knew he'd not file what I believed had to be filed, if only for history, I excused him and was pro se. So I was pleasantly surprised when he came back in on remand and did what he limited himself to well. Cut what I can be held liable for from almost \$10,000 to under \$900. But I'm not paying that anyway, so the victory for me, as he knew, is meaningless. And I do not regard it as a victory. I'

I'm concerned about evil precedent. Plus, as you'll see, Jim is now out of it and the sanctions against him are wiped out, which means that that evil precedent is eliminated. Great threat to all lawyers.

I'm going to allege fraud and perjury, demand a judicial inquiry, send copies to the DJ's official whitewasher, its "Office of Professional Responsibility" and ask for a reopening or in the alternative, for a trial, there having not been even a finding of fact. I'll claim a constitutional right to a trial.

As you'll understand when you see it, what I'll file could have some impact and do some good if it could get any attention. I've no reason to believe that any desk would handle any such story today and I've ample reason to believe that a large number of reporters will not, because I gave them an opportunity, a real man-bites-dog one. But I'll still try them again soon.

Again fairminded to Lynch, I excused him in writing at the appeals court, and he took depositions that were helpful (without consulting me about the questioning in advance) and in my present situation did some research for me and sent me a copy of the rule I should use. I'd not have been able to identify it and would not have been able to do the research to learn it. He finally got around to something I've been asking him and Jim for months, do they have to come to Maryland to collect on any judgement and if they do, am I then entitled to a trial. He told me that he found no case law with the judgement against the plaintiff and that quite likely the situation thus would not be comparable with the judgement against a defendant. I do want to force this incredible and very blatant dishonesty to a trial. And I'm sure the government will do all it can to oppose that. And what I've learned for the copy of the Rule Lynch sent me, that he and Jim never responded on, is that I can enter an entirely new case under that rule. If I did it would then be in Maryland, to get away from the Reaganized appeals court and the omnipresent fear in Washington. I wish I knew a vigorous lawyer with the interest because I'm sure I could collect money damages on fraud and get an SA indicted for perjury. Could not be mere material and I've the proof that he knew he lied because he is the supervisor in my case and in Allen's in which he made the disclosures I'm using.

Please excuse the haste and the typos. Good luck with the CIA and I do hope you can get all that stuff handled so you can go ahead with the book.

Best wishes,



June 29, 1985
P. O. Box 34071
Bethesda, Maryland 20817

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

Dear Harold:

Forgive me for being so dilatory about answering your most recent letter. Since settling into this temporary furnished efficiency I took on returning from the West I have immersed myself to the exclusion of almost everything else in writing Galindez notes, for the simple reason that I am sick of having to see stacks and stacks of unprocessed raw materials around.

In case I've never described my method, I am putting together the massive amount of material I have collected as a splitter rather than as a lump. The notes are either about a person (e.g., Galindez himself) or a topic (e.g., the Dominican consulate general in New York) and are chronologic. I gather what information I have about that person or topic from all sources (e.g., FBI, State, CIA, NYPD, newspapers, books, private collections of papers) and then write a main chronologic entry if the information for that entry seems three-quarters to wholly probable. If I need to note and discuss variants in that information or to record minor details that are not crucial to the main entry, I do so in a footnote, and if a footnote is so long that it impedes the flow of the chronology, I put the information in an appendix. The main entry information is in the historic present tense to give myself a sense of the immediacy of the situation; the rest is in the past tense. A hypothetical example:

Monday, March 12, 1956

GALINDEZ sighs.^a (JG427.2-3, Spencer/NY 081357, J224; CT D815.4, Charles 021457, S554; NYT 060662 34)

^aHoracio HERNANDEZ thought it was more a hiccup. (Hernandez 022757 (JG771.4, Thomas/PH 031657, J448))

As you see, the sources follow the information immediately and are noted according to a set format I have evolved. The first one above, for instance, is in the format for information from FBI materials: the "JG" indicates the Galindez file (digraphs in lieu of the FBI's more cumbersome two-element numbers), the "427" shows the serial, the ".2-3" the pages within the serial, "Spencer/NY" the reporting agent and his field office, the "081357" the date of the agent's report, and the "J224" the page number in my collection. The obvious redundancies

are failsafes because of the inevitable occasional typos in recording tens of thousands of numbers; if I cannot find the original information on page J224 because it was really on page J324, I can always go to JG427 or look for Spencer/NY 081357.

The notes vary in length from a couple of paragraphs to five hundred pages or so, and the long short to medium-length notes I have been writing recently have ranged from twenty to sixty pages. Since all of them follow the same chronologic presentation and will eventually be word-processed if they are not already, I should in a few months be able to use word processing to merge relevant portions of the individual notes into what I will probably call my First Preliminary General Chronology of the Galindez Case. That should yield a far clearer picture of the case than anyone has ever had so far, and then I'll throw a party to celebrate having taken that major step.

One of the notes I recently finished is about Stanley Ross, whom you mentioned in one of your letters. By all accounts, he was a really scurvy character. If you have information about him beyond the spare reference you made, I would certainly welcome it.

My chief recent venture in the damnable FOIA area has been "oral Vaughning"--which I'm sure you know about from discussions with Jim Lesar--with the CIA. It all sprang from their April victory in Sims, and I fear they will use the technique to great effect, at least in what they are able to tell Congress. I backed off quickly (and may be the only requester to have done so), as described in the enclosed interview note.

Jim mentioned in a recent phone conversation that that American Historical Association and other historians' groups have come up with a bill to force all agencies, presumably including the intractable CIA, to turn over their records to the National Archives after twenty years. Or something like that: he didn't have all the details and since we had several things to talk about we did not dwell on the matter long. No such bill could get through now, of course, but perhaps the groundwork has to be laid years beforehand.

Best regards,



Alan L. Fitzgibbon

Interview Note

Government side: Richard Sullivan and Lee Strickland, CIA attorneys; Freddi Lipstein, DOJ attorney; Scott Kragie, AUSA, who has represented the CIA throughout Fitzgibbon v. CIA; Louis Dube, FOIA officer in the CIA's operations directorate; Joann LNU and another, younger woman, CIA FOIA processing types or paralegals. Our side: Steve Doyle and I. The meeting was held in a seventh-floor, intelligence directorate conference room at CIA headquarters from 1440 to 1700, June 14, 1985.

CIA headquarters was a disappointment--another uninspired government building. The spiffy gate guard demands a driver's license or other identification and then checks one's name against his list of authorized visitors, after which he says to turn left at the traffic light a few feet ahead and park in "front parking" at the third stop sign. That turns out to be the grass quadrangle before the main entrance to the headquarters building; the walk to the entrance is short. On the north side of the quadrangle is the auditorium, an ungainly half-sphere which could be mistaken for one of the many air-tent tennis courts in the Washington area with a disproportionately large portico. No architectural masterpiece, certainly. The main headquarters building appears low and by outside count has six stories, though the elevators inside go to the seventh floor. The windows are not mirrored and all seemed to have venetian blinds. A lot of them were dirty.

The lobby is large, and immediately inside the CIA's seal--perhaps 15 feet in diameter--is embedded in the floor. I didn't notice any denizens walking across it, but on top of it and towards its rear was a board with a sign calling for blood donations. On the north wall of the lobby is an inscription to the CIA employees who have been killed in action and below, inlaid in the wall, are two- or three-inch bronze stars representing those people. The stars needed polishing. In front of the lobby's south wall is the CIA's famous statue of Nathan Hale, the unsuccessful spy who was caught and hanged. One walks up a broad, short flight of steps and there, beside two turnstiles that admit employees after checking their magnetic badges and a walkway for others, another spiffy guard directs the visitor down a corridor to the left to the visitors reception center (things being what they are in Washington, I was surprised this was not called the National Visitors Reception Center). Most of that room is taken up by sofas, armchairs, and coffee tables. A couple of security filing cabinets decorated the southeast corner of the room, and along its south side ran a long desklike table behind which half a dozen women sat waiting for visitors. I was reminded of the clerks behind the rented tables in precinct polling stations. One fills in his name and address on a green form in a swiveling metal box and the waiting escort fills in more information on the same form, and then the clerk turns the box toward her, turns its crank to eject the multiple copies, gives one to the escort and a visitor's clip-on badge to the visitor, and we are ready to proceed into the den of iniquity.

The corridors were surprisingly wide for a government building. At least in those we traversed there were a few paintings on the walls, all bad. Up an elevator to the seventh floor, down another corridor two, and there we were in the conference room. I automatically looked around for the bugs, but then they would have been hidden. The rest of the furniture was standard civil service.

Sullivan opened the meeting by saying that this was our second, the first having been at the Justice Department a few weeks earlier. At that meeting, he continued, we had agreed on another so that I could test the usefulness of "oral Vaughning," and now we were at that point and would discuss 10 of the documents in dispute. This was the only time so far they had provided a test session like this.

(He did not recapitulate the first meeting fully. Since I have not written a note about it, I will recall that he opened that one too by saying that it was a settlement conference whose discussions should not go beyond the walls and that he really had nothing to say but was eager to hear what we had to propose to settle Fitzgibbon in view of the enactment of last year's CIA FOIA exemption bill and Sims. Steve said at length that we really didn't have anything to say either but had come to the meeting expecting that they did since they had called it, thus tossing the ball back to them. Well, Sullivan said, he did have one or two ideas. Grinning almost orgasmically, he began extolling "oral Vaughning," which he was sure would give me all the information I needed. Why, he had had lots of satisfied "oral Vaughning" customers, chiefly Mark Lynch, Mark Lynch, and Mark Lynch. If Steve would call him or his assistant, Susan Shaffer, he was sure they would vouch for the procedure's efficacy because it saved so much litigation. All the CIA asked in return for our entry into "oral Vaughning" was that I agree not to attribute any information so released to it and that Steve petition Judge Greene to vacate his decision of many months ago. Steve asked a number of technical questions that resolved a few points but left as many hanging, and I asked some questions of my own: would the CIA now release information about dead sources (Strickland said probably), could I attribute CIA-released information to other sources if I had them (yes), did they have any other ideas for resolving the dispute (no). Thinking that "oral Vaughning" was a gross misnomer and that the CIA intended to leak fairly freely to get the onerous Fitzgibbon decision quashed by its own author, Steve and I agreed to the test session they proposed.)

While the paralegals and I spectated and Strickland and Lipstein kept generally quiet, Sullivan and Kragie began tilting with the valiant Steve. Kragie, whom I had not met before, turned out to be a true-blue hardnose and quite obnoxious. He, more than the suaver and rather more intelligent Sullivan, kept needling Steve with Sims: really, you know, we hold all the cards and are here to do you and Mr. Fitzgibbon a big favor. (Steve said later that though he found Kragie personally pleasant, he also found him hard to take--"a typical government litigator.") Lots more references to Lynch and a few to Bud Fensterwald and "Jimmy" (again) Lesar as satisfied customers. Scalps on their belt, I thought, beginning to have my first doubts about the whole process. Sometimes the give and take verged on acrimony; Kragie in particular all but shouted occasionally.

Sullivan first wanted to know what the "universe of documents" was. Steve explained that he excluded FOIA requests I had made to the State Department for biographic information which State had automatically forwarded to the CIA (because biographic intelligence has for many years been centralized in the CIA) and my supplemental request for information about 84 additional people. The documents at issue fell into two categories, the first those already formally Vaughned which

comprised 551 CIA documents and 284 FBI documents containing CIA information, and the second those that had not been formally Vaughned because they had been discovered after the litigation began and which comprised 20 or 30 CIA documents and slightly more than 200 FBI documents containing CIA information. Sullivan asked that we provide a list of documents in the second category so they could consider it.

Kragie then turned to the need for agreement on when Greene would be asked to vacate his decision. On the assumption that later "oral Vaughning" sessions would disclose as much information as this first test session, he wanted a motion submitted to the court after the test session. Lynch, Fensterwald, and Lesar would swear to the CIA's good faith that "oral Vaughning" sessions all produced the same amount of information. Steve said no, such a motion could only be made after the last session. Impasse. Kragie and Sullivan were obviously nonplussed that Steve questioned their good faith and said as much. They suggested that he submit the motion after the test session and if not later satisfied move to dismiss the court's vacating order after the last on a charge of bad faith. Your money back if not fully satisfied with our snake oil.

Sullivan then began murmuring about how much time the CIA could afford to devote to Galindez "oral Vaughning," which by implication was an attempt to limit the number of documents to undergo the process. It was agreed that this matter would have to await resolution of the first two questions.

The lawyers finally allowed Dube and me to start the "oral Vaughning," much as adults saying to politely attentive but fidgety kids, "Now you can run along and play for awhile, children." Dube, who looked and dressed much like some of the New York police detectives I have dealt with, asked what documents I wanted to take up and apparently had not been told of the list I had given to Steve to pass on. I said Document 22.

He would first summarize the formal Vaughn entry for the document and then add a few innocuous words, such as, "This dispatch came from a CIA station in a foreign country." I could then ask questions. It quickly became apparent that he would not reveal any sources or locations, no matter how dead or obvious. I asked about dead sources and he said the CIA had to protect their survivors or was protecting not them but its relationship with a foreign intelligence service. I pointed out that Trujillo's intelligence service had been defunct for a quarter-century. Kragie snapped, "That's not open to debate!" The nature of the information Dube disclosed, which went little beyond that in the formal Vaughns, is noted overleaf. Because of the long legal wrangle at the beginning of the session and another legal set-to after the "oral Vaughning" had started, we got through only six and a half documents in about an hour and a half, or one every 10 minutes.

I was much impressed by the government's arrogance during the session. Afterward it took only a couple of hours to review my notes and conclude that "oral Vaughning" with the CIA is risory and absurd: the CIA's present crew have consistently overinflated their agency's importance in the Galindez case; what little information was revealed beyond that in the formal Vaughns I already knew, could guess at, or could acquire more fully and simply from abundant collateral sources; to cover

all of the CIA (and not FBI) documents in dispute--assuming the CIA agreed to do so-- would require at least 12.5 full working days of time much more valuably spent elsewhere; a continued relationship with the CIA would mean further tension and badgering; and, perhaps most important, the CIA would get far more than I from the arrangement in that it would expunge the Greene decision and its precedential value. To hell with the CIA and its "oral Vaughning," then; we will defend the Greene decision against the further challenges to it the agency will undoubtedly make in the higher courts and, if Steve isn't exhausted, open new lines of litigation in the district court.

The only thing of value to emerge from the session was Dube's description of the CIA's FOIA search process, something now of the past as to his own operations directorate thanks to last year's law. It may be noted that Greene refused to allow us to gain the same information through discovery. According to Dube, the names in a request are fed into a computer and its output lists the documents the operations directorate has about that name according to the indexing criteria the directorate used at the time a document was indexed, i.e., shortly after it was written. The CIA once indexed all names in a document, as is the FBI's practice, "but we've gotten away from that," he said with some disdain for the FBI. He refused to say what current indexing criteria are but implied that they are more limited than those of a decade or two ago.

The following is all the information Dube disclosed about the six and a half documents he discussed. The "C" or "F" at the end of each paragraph shows whether Greene awarded the document to the CIA or me in his original decision; in the case of these documents, he did not change his rulings in any later decision.

Document 22: A CIA headquarters official records information he gained overseas from three non-Dominican sources, one of whom was on the CIA's payroll, about how people can be smuggled into or out of the Dominican Republic. The memo gives details about the sources' backgrounds. The possible secret entry of a drugged Galindez into the Dominican Republic and ships such as the Fundacion are not mentioned. C.

Document 23: The writer of this cable, the same as of Document 22, summarizes the information in that document and asks the addressee, a chief of station (COS), if such procedures could be used to smuggle a person into or out of the Dominican Republic today. The last short paragraph said that material is being pouched to the addressee. (The writer was a Western Hemisphere division official and the addressee was Brett.) C.

Document 24: A COS reports on a regular meeting he had on May 7 with his liaison officer (LO) in the secret service of the country where he is stationed. The LO is identified by a cryptonym. The LO mentions something published in Life, says that Galindez had close contacts in communist circles, and tells the COS a few things about an operation his service is running. The dispatch does not say if the LO told the COS anything at his superior's behest. (LO = De Moya; COS = Brett) C.

Document 25: A raw intelligence report from a CIA station in a country other than that where the COS of Document 24 was stationed. (Station Mexico City.) -.

Document 26: A COS reports on a regular meeting he had on May 18 with his LO. The LO shows him a report that Galindez had been involved with four communist leaders, one of whom had been responsible for murders at a certain place at a time not specified. At the end of the dispatch the COS mentions an operation the LO's service plans to undertake and says he will ask the LO for more details of the operation. (COS = Brett; LO = De Moya; report came from Spanish embassy in Ciudad Trujillo; commie killer was probably Beldarrain; his alleged victims were probably the 11 bishops, nine of whom were not murdered and the other two of whom were liquidated at separate times and places during the Spanish Civil War.) F.

Document 27: A COS in a Latin American country other than that of Documents 24 and 26 reports on a conversation he had with Source 1, a man not on the CIA's payroll but with whom the local station was familiar. Source 1 told the COS he wanted to give his information only to the CIA and not to the FSOs or other officials in the U.S. embassy, and later in the dispatch the COS asks his headquarters to disguise Source 1's identity if it reports his information to the FBI and State. Source 1 tells the COS of a conversation he had with Source 2, a male diplomat from the country of Documents 24 and 26, in which Source 2 described one or more political murders in his own country. Source 1 was not of the same nationality or native language as Source 2. At the end of the dispatch the COS speculates about the method of Galindez' murder, based on what Source 2 had to say about the nature of political murders in his own country. (Source 2 was obviously a Dominican.) C.

Document 28: A COS in a country other than that of Documents 24 and 26 says his LO gave him the attached document in response to an earlier CIA request for information about a matter unrelated to the Galindez case. The attachment, totally denied as is the three-line dispatch, is a 12-page public-domain pamphlet in English dated May 1, 1956, containing five or six articles, one of which is about Galindez' disappearance. F.