5/21/90

Somehow this copy of a Freedom of Information Act appeal of more than a decade ago was not filed and I've just seen if for the first time since then.

I think it can be informative to students in reflecting the official determination not to comply with the Act, to frustrate disclosures in general, to make use of the Act costly and difficult for people seeking to use it where the subject matter can be embarrassing to the government, and the unabashed dishonesty of the FBI in particular. These comments apply also to other agencies like the CIA.

I had been asked in the KIng case, by the judge, to cooperate with the Department of Justice chief of appeals and he had asked me to assist in his role.* As a result I filed an extraordinary number of documented and detailed appeals. In both cases they take uo about seven full file drawers, with some duplications, as can be seen from the headings.

The net result was to a large degree a waste of my time because it simply was not possible for Shea to make any real difference and because he believed in the Act and in the government's responsibilities under it and sought to get the FBI to disclose what it could not properly withhold it used its influence to get rid of him and replace him with bureaucrats ~~that~~ who in general opposed the Act as much as it did. They had him kicked upstairs and eventually he resigned.

One point that is obvious is that the FBI was using the Act as a withholding statute whereas it is intended by the law to be a disclosure statute. The FBI actually withheld from me, in a case before the federal courts, what it had authorized the Warren Commission to publish and it did publish, in facsimile.

Robert Kaffka was an FBI informer and in that role he misinformed it.

Hal Verb had a study group, of young people interested in the JFK assassination. Kaffka joined it. I attended and spoke to one of its meetings. Kaffka was present and he tried to monopolize that meeting with what amount to provocations. He also tried to get another group started. He gave it the name of The Twenty-Second Of November Brotherhood. It got nowhere. If my appeal does not reflect it, that was in San Francisco.

Kaffka also informed for the FBI in Mexico. As I now recall it one of the people on whom he misinformed the FBI from Mexico was named Arnold Lewis Kessler. I think he was a Detroiter and the FBI's investigation of him included Detroit. Of course, Kaffka made trouble for Kessler, who was, as I recall, a friend of his.

As I recall it, Kaffka was a bit nutty.

* With regard to JFK assassination records.

To Quin Shea from Harold Weisberg: Appeals, JFK and King assassination records 5/30/79
Deliberateness of improper FBI withholdings;
Withholdings of the public domain;
"National Security" claims for the public domain;
Refusal to consult indices in processing records;
Worksheets on and processing of Dallas and New Orleans records (C.A.s 78-0249, 78-0322 and 78-0420);
Appeals (including PA) related to Robert Kaffka

While what follows adds to what I have previously informed you relating to JFK assassination records in general it is applicable to the FBI's non-compliances in the King case and in particular to its continuing pretenses of a) not having indices and b) refusing to consult its indices (and those I tried to provide it for use in processing King records only to have it persist in its refusal through the entire MURKIN processing).

The inevitable result was permeating withholding of what is within the public domain.

Some tome ago I gave you copies of FBI worksheets on which it had already withheld, under a variety of entirely spurious claims, the identical information published in facsimile by the Warren Commission in 1964.

This is to say, as I have told you often enough, that the document released in its entirety prior to the enactment of FOIA, was expurgated under FOIA under phoney and unnecessary claims to exemption.

This, of course, also makes it clear that the historical case determinations are not intended seriously and certainly are not taken seriously by the FBI, which continues to the tail wagging the FOIA dog within the Department.

As undeterred by fact and truth as it is by law the FBI has made and has not withdrawn a long serious of false representations to a number of courts, leading to misrepresentations and other untruthful proffers to courts by Department counsel.

Earlier today I wrote you after reading a copy of a list of House assassins committee exhibits, which includes FBI records still withheld from me in both King and Kennedy cases, even FBI photographs the FBI claimed it had to withhold under claim to copyright, a matter now before the appeals court. Despite all the assurances to both district and appeals courts by the Department and the FBI copies of House committee copies of FBI copies of these photographs can now be purchased in Washington from what calls itself the Assassination Information Bureau. Recently I obtained a copy of their list of such offerings.

Also in yesterday's mail was a response from one to whom I had sent a copy of 105-82555-2522 so that, among other things, I might obtain more information for you regarding the appeal to which I attached a copy of this expurgated record. I informed you it had to relate to Robert Kaffka, that I had met him and had doubts about him. I told you he was connected with a study group run by Hal Verb, of the San Francisco area.

The information I have received is that Kaffka disclosed to his then associates a relationship with the FBI not explicitly defined in what was sent me. Or, from some time

in the late 1960s on, the Kaffka-FBI relationship has been publicly known.

I now refer you again to the published records of the Warren Commission, Volume 24, Exhibit CE 2121. It is a long FBI LHM from which the FBI omitted any file number. I thus cannot cite it from the records provided to me, if it has been provided at all. I also cannot give you other details of FBI withholdings from it under various contrived and baseless claims to exemption. (Checking it might be interesting, however, if you will be kind enough to provide the citation and if the FBI is unwilling to do the checking. It can hardly do such checking and file Summary Judgement motions, however, can it?)

The Commission published this very long LHM in facsimile, two pages pages to a single printed page, beginning on printed page 570. The FBI titled this lengthy memorandum with the ultimate in informativeness and brevity: "LEE HARVEY OSWALD." The date is 5/[illegible]/64.

Beginning on page 159 of the memo, printed page 649, you will find that what was withheld in the 1977 processing under FOIA by the FBI was disclosed and published in 1964 with the disclosure then, prior to any FOIA, by order of both the Director and Attorney General. Specifically including Kaffka's name. This is a paraphrase of the expuragted Serial, with the information included in the parphrase being identical, even to the date in Mexico City and of the Mexico Legat's communications. (classified by FBI in 1977)

With this as atill another of the many examples I have provided I believe it is necessary in both cases to have all the Mexico Legat's records in both cases sent to Washington for release as part of the historical case processing and in compliance with my requests and litigation.

Not that I have any reason to believe the Department cares or as a matter of policy wants anything but what it helps the FBI get away with in these FOIA cases; and not that I have any reason to believe that Department cousel is unaware if even innocent; but I do believe that I have the obligation of letting someone in the vast Department bureaucracy know that it has made false representations to a court with regard to this matter and on the b sis of false representation has procured Summary Judgement.

Your [redacted] action on my appeal relating to the worksheets appears to have been limited to reading the entries made on them, not the legitimacy of the entries. Entries were made covering the processing of the Kaffka records, among many of which the identical imporoper processing is [redacted] characteristic. This amounts to rubber-stamping.

Rubber-stamp or not I have filed a large number of individual appeals that ought not be difficult to process, are long overdue even in backlog terms and are involved in cases currently before courts. So once again I ask when I may expect any of these to be acted on.

You may or may not remember it but in appealing national security claims I have often alleged that what these claims are really intended to do is withhold from the country information that is well known to other governments and their intelligence agencies.

The list of House assassins committee exhibits provides information relevant to my old appeal of other withheld Mexico City Legat information. In general the subject is included within the purposes or ostensible purposes of this long 5/18/64 memo.

It had to do with surveillances on which Oswald was allegedly picked up - electronic and photographic.

I believe I referred to published information not limited to writers who were former intelligence agents like Phillips and Hunt. I told you that neither the electronic nor photographic surveillances were not well and publicly known, withholdings being from Aermicans only.

Among the exhibits published by the House committee, from the [illegible] is Cuban government photographs of American agents making such photographs in Mexico City!

It was well enough known for the Cubans to photograph themselves being photographed and they gave copies of their photographs to the House committee.

If the ~~Cuba~~ Castro Government is this well informed, naturally "national security" consists in withholding what Castro has pictures of from the American people, particularly those who write to inform the people and those who research into the functioning of the institutions of the American Government.