

To Quin Shea from Harold Weisberg, re FBI fee waiver revocation 10/19/80

As you are aware, the FBI, without citation of any authority, unilaterally revoked the fee waiver granted me by the DAG after Judge Gesell determined, in C.A. 77-2155, that I meet the prerequisites for the fee waiver. The FBI has not claimed that there has been any change or that I do not meet the prerequisites.

My counsel has not been able to address this as it pertains to matters in litigation. He has filed a protective appeal.

In this I amplify my appeals as they pertain to requests not being litigated.

As you are aware, I have been hospitalized for a month, first for arterial surgery and then for additional and corrective surgery. The consequences are that I am even more limited in what I can do. I believe my present situation qualifies me even more for the fee waiver.

The FBI claims that because the House assassins committee had access to records and issued a report the public interest is fully and adequately served by the committee's publication of a report.

The report was not well received, by the press, by subject experts and by others.

The Department supposedly is now conducting three further investigations as requested by the committee. Of these one is the direct result of not what the committee found in its examination of FBI records but of what I brought to light through my FOIA litigation against the FBI, C.A. 78-0322. In and of itself this reflects the inadequacy of the committee's investigation and reporting. It further reflects the importance of my work and my serving the purposes of FOIA, which will be impossible without the fee waiver, now even more than before.

This particular matter reflects on the FBI and may account for its, so far as I have been informed, unauthorized revocation of the fee waiver.

It pertains to pictures taken by one Charles Bronson, still and movie. The FBI in Dallas examined those pictures, decided they were worthless, appears not even to have informed FBIHQ of their existence, and stated that they do not even show the building from which the FBI claimed all shots in the JFK assassination were fired. In fact the

motion pictures include more than 80 individual pictures of not only the building but the window from which the FBI says the shots were fired and those near it. This movie, taken at the time of the crime, has been interpreted as showing objects in motion although the FBI claimed that Oswald was the lone assassin.

Without my FOIA litigation and the fee waiver these pictures would remain unknown, with the proof of the FBI's entirely inadequate investigation buried in the Dallas office.

The inadequacy if not incompetence of the committee's work is reflected by the fact that it did not even learn of these pictures until late in its life copies of some of the frames referred to above were published.

If the committee had been thorough and competent, as it was not, its report <sup>still</sup> would not constitute an adequate making available of the information I sought and seek. Much, particularly the King political material, is largely ignored. In addition, as the committee's own preliminary report (to which the FBI makes no reference) reflects, the committee began with ~~its~~ preconceptions and used the largest appropriation in the history of Congressional investigations in a partisan effort to validate these preconceptions.

This does not meet the intent of FOIA.

As you know, the committee's records will be kept secret for 50 years. Any FBI or other records in the committee's files thus also <sup>remain</sup> ~~remain~~ secret for 50 years. FOIA requires prompt access to information not within the exemptions.

Moreover, the committee's files are chaotic and incomplete. This and the fact that some, especially originals, are in private hands, are established by National Archives records <sup>I</sup> have obtained. I have added the marginal notations to the copies I attach. If any records are in private hands that constitutes discrimination, particularly discrimination against me. In addition, the committee returned certain records, did not use them in its report and did not keep copies for access 50 years hence.

As the Archives record of 4/8/80 states, it is not even possible to locate some of the committee's records because they are not identified or are identified inaccurately. Some of the records are missing.

For some time, although these records were to be treated as Top Secret, they were

stored in an insecure area "widely used as a thoroughfare by persons in the building, consequently unauthorized access to the files is an easy matter." In this undated memo the Archives official, George P. Perros, also states, "My concern has mounted since I learned that the F.B. I is investigating the National Archives ~~status~~ <sup>because</sup> of the disappearance of certain sensitive records." This is to say that prior to its revocation of my fee waiver the FBI had reason to believe that the committee's records might not be complete and that records have disappeared from the Archives. My own knowledge of this goes back to 1966, when I published it after the Archives refused to make any effort to replace records it knew were missing. (This is aside from the extensive purloining of Warren Commission records by that staff, of which the Archives and the Commission both had knowledge. Both refused to make any effort at retrieval. In addition, a commission counsel, later a Department lawyer, also took original Department records when he left. This is the subject of an appeal on which you have not acted.)

The attached legal-sized pages are from a document titled "Protocol, Access for Documents of the ~~the~~ committee.

One of the four main functions of the committee was to inquire into whether the executive agencies "adequately performed) their/duties and functions, " including in collecting and sharing information" and "coordinating the results of these investigations."

That the committee did not address these matters ~~as~~ as I have is reflected by the Bronson film, referred to above, and by the FBI's failure to provide other such evidence, including other films that are the subject of my requests of more than a decade<sup>ago</sup> and still not provided after more than a decade and many appeals. I can provide many other such illustrations, including those reflected in ignored requests and appeals.

At best the report and the committee's other work are entirely inadequate in these areas, which are of significance under FOIA and are of considerable public interest and concern. Any committee opinion, absent the investigations some of which are indicated above, cannot meet the requirements and purposes of FOIA.

Under "Make-UP of the MLK-JFK Document Systems," the first item states that "Classified materials" were "on loan from federal agencies." Under EOIA classification

review is available. In fact an extraordinary amount of public domain information remains classified by the FBI, as many of my long and detailed appeals state without dispute.

Where the committee also had "3) Unclassified materials from federal agencies," such information is subject to FOIA requests made of the agencies <sup>are</sup> yet sequestered, as TOP SECRET, and for 50 years, by the committee.

The last of the attached pages of the Protocol, under "Sensitive Information," states that all is classified although not all of the underlying records are classified. This pertains to my King political request, which predates the committee, described as "King Security and COINTELPRO files."

Again, classification review is a right under FOIA and other means, some is improperly classified, and some has been declassified.

I have also marked "Autopsy Photographs," which ordinarily would be exempt. Some pertaining to Dr. King have been available for a decade on videotape as shown by the medical examiner, who made and made available that tape, although they remain denied to me. Some have been displayed at many public gatherings by the prosecution. And as the records from which I provide selections state, some still denied me have been published (JFK and King).

It is apparent that the government, through two branches, has arranged, despite FOIA, to see to it that information that is available under FOIA is also denied and will be denied for 50 years.

The FBI's fee waiver revocation, particularly as it relates to the King political records, serves and has the same purpose, of de facto denial of what cannot be withheld under FOIA. This is the sole purpose of the FBI's unilateral and unauthorized fee waiver revocation.

It should be obvious that the mere litigation of this question will be enormously more costly than providing the requested copies.

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The FBI's representation that the King political records are adequately made available in the committee's report is refuted by examination of the table of contents of that report. It has no heading for these records, under any designation. It thus appears to be apparent that the FBI has other purposes, purposes consistent with Cointelproing me and my counsel but not consistent with its claimed purposes, <sup>law</sup> ~~by~~ or regulation.

*Handwritten signature*