

MEMORANDUM

May 13, 1996

To: The Review Board
cc: David G. Marwell, T. Jeremy Gunn, FBI Team

From: Philip D. Golrick

Subject: Staff Recommendations on "Negative Contact" Informant Postponements

At its last meeting, the Review Board deliberated on a number of claimed postponements of the names of FBI "negative contact" informants: those who were contacted, but who provided no information, regarding either the assassination or persons, groups or events related to the assassination (*e.g.*, Lee Harvey Oswald, the Fair Play for Cuba Committee, threatened demonstrations at President Kennedy's funeral). In its deliberations, Review Board members generally appeared ready to sustain such postponements whenever the FBI demonstrates that the informant is currently living. However, different views were expressed regarding what constituted adequate evidence that an informant is currently living -- specifically, what evidence is necessary that someone who, according to a search of computer databases, is now living, is in fact the same individual named as an FBI informant. The Review Board directed me to submit a written analysis of this issue.

The Issue of Identification

The FBI's files on an informant often provide identifying information beyond the informant's name -- for example, a birth date or Social Security number. In such cases, this additional information usually allows a firm conclusion as to whether a living person located by database searches is the same person as the informant in question or is merely someone with the same name.

The issue of identification is framed most sharply in cases where the FBI cannot locate in extant records any information about an informant other than his name and *general* whereabouts at the time he was contacted, as reflected in the assassination record itself. In these instances, the FBI cannot provide further evidence that, for example, a John Doe (or one of several John Does) identified in computer records as currently living is the same John Doe named as a potential security informant of

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the Detroit field office in 1963, without contacting (each) John Doe. To date, the FBI generally has not taken this extra step.

Analysis

In a number of claimed “negative contact” postponements that did not squarely present the identification issue, the Review Board has released the informant’s name on the ground that there was no evidence that the informant in question is still living. In those cases, the Review Board has required at least some positive evidence that the confidential relationship between the FBI and *that particular informant* currently requires protection.

Consistent application of this principle dictates that, at least in many cases, identifying a living person with a named informant solely by their having the same name should not be regarded as sufficient evidence of a current need to protect the confidential relationship with the informant. The fact that many “Carol Smiths” now live in the Chicago area is all but irrelevant to the question whether the confidential relationship that the FBI had in 1963 with “PCI Carol Smith of the Chicago field office” currently requires protection.

It is my impression from discussion at last month’s meeting that a majority of Review Board members would agree with this conclusion for names as obviously common as “Carol Smith.” Whether the same reasoning equally applies to less common names is more open to question. However, the staff’s *ad hoc* judgments as to how common various names may be in different areas of the country would almost certainly result in inconsistent outcomes. A “bright-line” rule that more than a name (or name-plus-general-location) identification will be necessary to sustain postponement of an informant’s name would help the staff make consistent recommendations, and clarify for the Review Board the basis for those recommendations.

Accordingly, for informant postponements in FBI records assigned to Boxes 21 and higher (that is, those records that have been reviewed by the FBI team since last month’s meeting), the staff recommendation is to release informant names unless there is more specific evidence connecting the named informant with a living person than merely the name or name-plus-general-location. In the same records, where a named informant was contacted negatively and has been identified by name-plus-date-of-birth or name-plus-Social-Security-number as currently living, the staff recommendation is to postpone the name of the informant for ten years.