

UNITED STATES OF AMERICA  
GENERAL SERVICES ADMINISTRATION  
WASHINGTON, DC 20405



MAY 22 1975

James H. Lesar, Esquire  
1231 Fourth Street, SW  
Washington, DC 20024

Dear Mr. Lesar:

This is in response to your Freedom of Information appeal of April 15, 1975, on behalf of Harold Weisberg and Paul Hoch, seeking access to those portions of Warren Commission executive session transcripts denied your clients by Edward G. Campbell, Assistant Archivist for the National Archives, in his letter to you of April 4, 1975. We received your appeal in this office on April 17, 1975.

As a result of your appeal, we have reexamined the documents denied you, which included the transcript of June 23, 1964, pages 63-73 of the transcript of January 21, 1964, and the transcript of May 19, 1964. Our review of the first two of these documents, which remained at the time of the appeal security classified at the "Top Secret" level, involved consultation with the Central Intelligence Agency. We requested that the CIA review the transcripts to determine if they could be declassified. The CIA response, issued under the authority of Charles A. Briggs, Chief of the Services Staff, requested that the records remain security classified at the "Confidential" level and that they be exempted from the General Declassification Schedule pursuant to Subsections 5 (B)(2) and (3) of Executive Order No. 11652. The CIA further requested that should the authority of the Warren Commission to classify these documents be called into question, the documents were to be marked at the level of "Confidential" pursuant to the authority of the CIA to classify national security information.

Therefore, we have determined to uphold Dr. Campbell's decision to deny your clients access to the transcript of June 23, 1964, and pages 63-73 of the transcript of January 21, 1964, pursuant to the first, third and fifth exemptions to mandatory disclosure under the Freedom of Information Act, i. e., "matters that are . . . specifically authorized under criteria established by an Executive order to be kept secret in the interest of national

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defense or foreign policy and are in fact properly classified pursuant to such Executive order . . . ; specifically exempted from disclosure by statute . . . ; inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency . . . ." (5 U.S.C. 552(b)(1), (3) and (5), respectively).

The statute which specifically exempts these transcripts from disclosure provides, "That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure . . . ." (50 U.S.C. 403(d)(3)). Further, we have invoked the fifth exemption from mandatory disclosure on the basis that these transcripts reflect the deliberative process of the Warren Commission, and are not the written record of a Commission decision or opinion. To encourage free and full expression in the deliberative process, the Congress provided in the fifth exemption to mandatory disclosure a mechanism by which these records could be sheltered.

As stated in Dr. Campbell's letter, the transcript of May 19, 1964, is limited to a discussion of the background of Commission personnel. Therefore, we have determined to uphold Dr. Campbell's decision to deny your clients access to this transcript pursuant to the fifth and sixth exemptions to mandatory disclosure under the Freedom of Information Act, i. e., "matters that are . . . inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency," and "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy . . . ." (5 U.S.C. 552(b)(5) and (6), respectively).

This letter represents the final administrative consideration of your request for access to the withheld records. You have the right to seek judicial review of this decision by filing an action in the Federal District Court for the District of Columbia, or in the Federal District Court in which either of your clients resides or has his principal place of business.

Sincerely,

  
JAMES E. O'NEILL

Deputy Archivist of the United States