

2/27/76

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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HAROLD WEISBERG,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 75-1448
	:	
GENERAL SERVICES ADMINIS-	:	
TRATION,	:	
	:	
Defendant	:	
.....	:	

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, plaintiff requests that within 30 days the defendant produce and permit plaintiff to make copies of the following documents:

1. The cover or face sheets of the January 21 and June 23, 1964, Warren Commission executive session transcripts.
2. The November 5, 1975, affidavit of Mr. Charles A. Briggs, Chief of Services Staff, Directorate of Operations, Central Intelligence Agency, referred to in the answer to plaintiff's interrogatory No. 25.
3. All correspondence exchanged between the National Archives and Records Service or the General Services Administration and the New Republic or Mr. Tad Szulc with respect to the January 21, May 19, and June 23, 1964, Warren Commission executive session transcripts.
4. All communications exchanged between the Central Intelligence Agency and the National Archives and Records Service or

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the General Services Administration with regard to the classification, declassification, or review of classification of the January 21, January 22, January 27, and June 23, 1964, Warren Commission executive session transcripts.

5. Any letters sent to members of the Warren Commission as a result of the January 18, 1965, White House directive to the Attorney General that he find out how the Warren Commission viewed the problem of the public availability of its records. Also, the response of any Warren Commission member to any such letters. [A copy of the January 18, 1965, directive is attached hereto as plaintiff's Exhibit E]

6. Any instruction from the Warren Commission to its General Counsel, Mr. J. Lee Rankin, ordering him to classify the January 21 or June 23, 1964, or any other executive session transcripts.

7. Any document ordering Ward & Paul to classify the January 21 or June 23, 1964, or any other Warren Commission executive session transcripts.

8. Any statement of views on the public availability of Warren Commission records solicited of the following agencies: the Federal Bureau of Investigation, Secret Service, Central Intelligence Agency, Department of State, and Department of Defense. Also, the letters soliciting these views from the foregoing agencies. [The statements of these agencies are summarized in the "Attachment" to the April 13, 1965, Attorney General's memorandum re "Public Availability of Materials Delivered to the National Archives by the President's Commission on the Assassination of President Kennedy" which is attached hereto as Exhibit F]

9. The statement of views of Mr. Howard P. Willens of the Criminal Division of the Department of Justice referred to in the

last paragraph of the January 15, 1965, letter from Lawson B. Knott, Jr. to Gordon Chance. [A copy of this letter is attached hereto as Exhibit G]

Plaintiff requests that copies of the above documents be mailed to his attorney within 30 days.

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JAMES H. LESAR  
1231 Fourth Street, S. W.  
Washington, D. C. 20024

CERTIFICATE OF SERVICE

I hereby certify that I have this \_\_\_\_\_ day of February, 1976, mailed a copy of the foregoing Request for Production of Documents to Asssistant United States Attorney Michael J. Ryan, Room 3421, United States Courthouse, Washington, D. C. 20001.

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JAMES H. LESAR

~~CONFIDENTIAL~~

THE WHITE HOUSE  
WASHINGTON

January 18, 1965

MEMORANDUM FOR ACTING ATTORNEY GENERAL KATZENBACH

SUBJECT: Public Disclosure of Warren Commission Reports and Working Papers

1. Attached at Tab 1 is a copy of a letter which the President recently received from Mayor Robert Johnson of Cedar Rapids, Iowa, and which objects rather strongly to a report that the National Archives will not make available to the public, for 75 years, certain Warren Commission records. On receiving this letter, we asked National Archives for a background memo on the subject and for a suggested reply to Mayor Johnson.

National Archives has met our request and attached at Tab 2 is a copy of a GSA memo, with enclosures, which recommends that Warren Commission records be treated on the same basis as other investigative records and that, generally speaking, they not be made available to the public for a period of 75 years.

2. While the GSA memo seems to me to have some merit, in view of the very special nature of the Warren Commission investigation and the desirability of the fullest possible disclosure of all the findings, I believe that a further study should be made on the feasibility and advisability of making an exception, in this particular case, to the normal 75-year disclosure procedure. In this regard, and because of the legal ramifications involved, I would appreciate it very much if you would direct the Justice Department, in consultation with other appropriate agencies, to coordinate this study. The study should include, but not necessarily be limited to, answers to such questions as the following:

- (a) What alternatives are there to the 75-year procedure which would meet the aim of "fullest possible disclosure" and, at the same time, not violate the national security or the dictates of good sense? For example, can some or most of the material be released in two years? Five years? Can certain categories of the public (e.g. scholars) receive special treatment?
- (b) How does the Warren Commission view this problem (particularly the Chief Justice and Lee Rankin)?

McGeorge Bundy

cc: Acting Administrator  
Knott, GSA~~CONFIDENTIAL~~

Summary of Views of Interested Federal Agencies  
Concerning the Disclosure to the Public of Materials  
Delivered to the National Archives by the President's  
Commission on the Assassination of President Kennedy.

In response to inquiry by the Department of Justice, the federal agencies which submitted reports or other materials to the President's Commission expressed the following views regarding the disclosure of these materials to the public.

1. Federal Bureau of Investigation. The Federal Bureau of Investigation recognizes that materials furnished by it for use by the President's Commission, except those which were classified for reasons of national security, are in the public domain. Most of the material furnished by the Bureau was unclassified. Security classification was necessary in some instances to prevent the identification of confidential informants, to protect the secrecy of confidential investigative techniques, to avoid disclosure of information showing the Bureau's coverage of the Soviet Embassy in Washington, D. C., and to maintain the classification imposed by other agencies on information furnished by them to the Bureau. The Bureau believes that classified material should be disclosed only to persons having the necessary security clearance.

The Bureau believes that another problem is presented by unclassified material, some of which contains reports of rumor, gossip, and similar data involving innocent people. Some of this unclassified material contains the results of extensive investigations of Mrs. Marina Oswald and various associates of the Oswalds. Disclosure of such material, the Bureau believes, would be a source of unwarranted embarrassment to the people concerned. Some material contained in unclassified documents was furnished to the Bureau in confidence by sources such as banks and hotels. The records of these sources cannot be produced except pursuant to a court order. Public disclosure of this information might cause the Bureau to lose the cooperation of such sources in the future and might subject the sources to civil suit.

A separate problem is presented by records of the Bureau's investigation of Mr. Jack Ruby, whose conviction for the murder of Oswald is still under review in the Texas courts.

The Bureau, which has retained records of all material furnished to the President's Commission, is prepared to examine all classified documents in order to extract the classified information and make the remainder available to the public. In addition, the Bureau is prepared to review the classification of all classified documents at least once a year and at any time in response to a specific inquiry concerning the classification of a particular document.

While pointing out the problems noted above concerning undisclosed material, the Bureau makes no specific recommendation concerning such items.

2. Secret Service. The Secret Service recommends that access to its investigative reports furnished to the President's Commission remain restricted for all reports in the following categories:

"(1) Reports affecting national security.

"(2) Reports which reveal the extent of Presidential protection or protective techniques.

"(3) Reports mentioning innocent persons having no connection with the subject of the investigation that would needlessly embarrass or damage the innocent parties.

"(4) Reports containing information given to us in confidence which, when investigated, was found to:

- (a) have no connection with the assassination;
- (b) be untrue, yet the reports would be embarrassing, both to the supplier of the information who may have acted in good faith in view of the importance of the subject matter of the investigation, or to the person concerning whom the information was furnished; e. g., derogatory remarks about President Kennedy attributed to persons before and after the assassination.

"(5) Reports containing information from confidential informants from which readers might draw an inference, erroneously or correctly, as to the identity of the confidential informant."

The Secret Service has indicated its willingness to examine the reports furnished by it to the President's Commission for the purpose of determining which items may be made available to the public now (including declassification, if necessary) and which may be made available at some future time less than 75 years hence. It has also recommended an annual review of the necessity for continuing restrictions on particular items.

3. Post Office Department. The Postal Inspection Service furnished documents and information to various investigative agencies including the Federal Bureau of Investigation and the Secret Service. It believes that the receiving agencies should determine whether or not such documents and information should be disclosed.

The Inspection Service submitted directly to the President's Commission a summary of its activities, which was not a classified document. The Service has no objection to the publication of this document, but believes that the approval of the Federal Bureau of Investigation and the Secret Service should be obtained. The Inspection Service furnished to the President's Commission "copies of the front and back of POD Form 2153-X, dated September 18, 1963, covering a publication 'OGONEK' addressed to Mr. Lee H. Oswald, Box 2915, Dallas, Texas." The Service believes that these copies should not be made generally available at this time.

The Service has indicated its willingness to examine any documents furnished by it to the President's Commission for the purpose of determining whether they can be released to the public.

4. Central Intelligence Agency. The Central Intelligence Agency believes that items furnished by it to the President's Commission and withheld from the public domain under security controls should not be excepted from the normal 75-year period of nondisclosure. The Agency cooperated fully with the President's Commission and made every effort to release material furnished to the Commission for the public record.

Wherever it was possible without jeopardizing the national security or this country's posture abroad, security classifications were graded down. Because of this policy, very little of the material furnished by the Agency is now withheld from the public. The criteria which were applied in determining whether or not to release information were: (1) the evidential value of the information in question; (2) the protection of sensitive sources and methods of operation; and (3) the possibility of international ramifications in view of the fact that most of the material was acquired abroad, particularly in Mexico and the U. S. S. R. None of the withheld material has a direct bearing on the assassination of President Kennedy.

The Agency believes that the national security requires the continuance of restrictions on withheld documents and that this interest outweighs all other considerations. It recommends that at the end of the 75-year period another security appraisal be made before such documents are disclosed.

5. Department of State. The Department of State made every effort to cooperate with the President's Commission in releasing to the public all significant information concerning the assassination of the President. In a small number of cases, the publication of documents was restricted in order to protect coding systems, in the interest of national security, to avoid personal embarrassment, or because a later revision of a draft document containing the substance of the draft had been released for publication. (Where coding was involved, the full substance of the document in question was made available for publication.) A few documents were classified and have been restricted accordingly.

Some of the material which has not yet been made available could probably be released if necessary. It will probably be possible to release other material within the next ten years. In cases where a document was furnished by the Department but originated with another agency, the approval of the originating agency should be obtained. The Department is prepared to examine material furnished by it to the President's Commission now and on an annual basis hereafter to reevaluate the necessity for nondisclosure.



6. Department of Defense. The Department of Defense has examined material at the National Archives which has been identified as furnished to the President's Commission by the Department. Some of the material, consisting of investigative reports and other material relating to individuals, is of a kind normally not disclosed to the public. In view of the exceptional nature of the work of the President's Commission, however, the Department does not object to the disclosure of this material, all of which is unclassified. If further material is later identified as originating with the Department of Defense, the Department requests an opportunity to review such material before it is disclosed.

7. Internal Revenue Service. The Internal Revenue Service has no objection to unrestricted public examination of documents concerning matters included in the public record by the Report of the President's Commission.

Tax returns which have not been made a matter of public record are protected from disclosure by Sections 6103 and 7213 of the Internal Revenue Code and by 5 U.S.C. Section 22. The President has statutory authority to disclose such protected information, but the Service recommends that in accordance with the spirit of the statute, tax returns not made matters of public record not be made available for general inspection.

A determination concerning other items furnished to the President's Commission should be made on an individual basis. Many documents reflect protected tax return information. Others contain information which would indicate the identity of a confidential informant, which is scandalous and not relevant to the subject of the Commission's inquiry, which consists of unconfirmed allegations by third parties, or which discloses the Service's policies respecting collection, auditing, settling, or prosecution. The Service has traditionally maintained a policy of nondisclosure of information of this sort and believes that the public recognizes the necessity for this policy. The Service believes that disclosure of material of the kind indicated would not add significantly to the comprehensive report of the President's Commission or to public information concerning the assassination of President Kennedy. Accordingly, the Service believes that no public interest would be served by disclosure. The Service believes that except in exceptional circumstances, documents of which portions must remain undisclosed

be restricted in their entirety. If documents containing deletions are released they are likely to prompt curiosity about the deletions and may produce charges that significant information is being withheld.

As a means of assuring the public of the thoroughness of the Commission's investigation, the Service suggests that letters received by it from the President's Commission requesting documents, along with transmittal replies, be made available for inspection. Clearance to disclose such letters would have to be obtained from the President's Commission, the originating agency.

The Service has indicated its willingness to inspect material furnished by it to the President's Commission now and at periodic intervals to determine whether such material may be made available to the public. It suggests that material be withheld only if: (1) disclosure is prohibited by law or agency regulations; (2) disclosure would be detrimental to the administration of the laws administered by the agency concerned; (3) the material relates to scandalous information unrelated to the assassination; (4) the material consists of unsubstantiated information or allegations; or (5) the material could embarrass or damage innocent persons without serving the public interest in full disclosure of information pertaining to the assassination of President Kennedy.

8. Immigration and Naturalization Service. The Immigration and Naturalization Service has previously authorized the President's Commission to publish all documents furnished to it by the Service. Accordingly, the Service has no objection to the immediate disclosure of all such documents to the public.

JAN 15 1965

Gordon Chase  
The White House

The Acting Administrator

Proposed reply to Mayor Robert Johnson's letter to President  
Johnson concerning the records of the Warren Commission

As requested I am attaching a draft of a proposed reply to Mayor Robert Johnson's letter to the President, January 4, 1965, in which he objected to restrictions reportedly imposed on the use of the records of the Warren Commission. Mayor Johnson's letter was apparently inspired by press reports (see attached clipping, Washington Post, December 22, 1964) quoting Deputy Archivist, Robert H. Bahmer, to the effect that the Commission records would be closed for 75 years. In point of fact Mr. Bahmer stated that the 75 year limitation was the general policy applied to the reports of investigatory agencies and similar material and would be applied to the records of the Warren Commission unless an exception were made in this particular case.

The Warren Commission records were transferred to the National Archives on November 23, 1964, in accordance with the Commission's decision announced in the final paragraph of the foreword to its Report: "The Commission is committing all of its reports and working papers to the National Archives, where they can be permanently preserved under the rules and regulations of the National Archives and applicable Federal law."

The records consist of some 300 cubic feet of material, much of it consisting of unfiled documents and extra copies of papers duplicated for the Commission's use. Several months will be required properly to arrange the records and prepare an inventory of them. In general the records consist of

1. The administrative and business files of the Commission.
2. Documentary material gathered by or submitted to the Commission.
  - a. Testimony given before the Commission
  - b. Depositions taken by officers of the Commission.
  - c. Affidavits submitted to the Commission.
  - d. Investigatory reports made for the Commission by various investigatory agencies of the Federal Government.
  - e. Original documentary materials acquired from other persons as exhibits.
  - f. Original photographic materials acquired from other persons.

Those exhibits in the nature of artifacts, such as items of clothing, weapons, and other physical material are still in the custody of the Federal Bureau of Investigation. No restriction on these materials or on the photographic exhibits is contemplated.

The most important of the documentary materials are the transcripts of testimony, the depositions and the affidavits (most of which were published in the 26 volume set, Hearings before the President's Commission on the Assassination of President Kennedy) and the reports of investigations made for the Commission by the FBI, the Secret Service, the CIA and other departments and agencies, many of which were not published in full.

These reports and allied papers are the raw data compiled by the investigators. Many of them reveal the techniques of investigation and the sources that the investigatory agencies rightly insist must not be disclosed. Many of them contain information concerning innocent third parties, information irrelevant to the investigation of President Kennedy's assassination, the release of which would embarrass or injure innocent persons.

Because investigative reports contain unevaluated data the investigatory agencies of the Government have always placed restrictions on their use. The National Archives at the request of these agencies has imposed a 75 year restriction on such materials. We believe that this restriction should be applied to similar materials in the Warren Commission records, and we recommend that the attached draft of a proposed reply to Mayor Johnson embodying this policy be used as a basis for the President's reply.

The attached draft has been concurred in by the following agencies: the U. S. Secret Service; the Department of Defense; the Department of State (in so far as the 75 year restriction is concerned); the Immigration and Naturalization Service; the Central Intelligence Agency; the Internal Revenue Service and the Federal Bureau of Investigation. Mr. Howard P. Willens of the Criminal Division, Department of Justice did not concur. We understand that he has indicated his position to you directly.

Enclosures

Lawson B. Knott, Jr.  
Acting Administrator

cc:

Official file - N ✓

A

Day file - N

RHBahmer:fg ND 1-15-65

*W. Groves*  
*W. [unclear]*

*B. [unclear] 1/15*  
*AL [unclear]*