

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

-v-

GENERAL SERVICES ADMINISTRATION,

Defendant

Civil Action No. 75-1448

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant, by its attorney, the United States Attorney for the District of Columbia, respectfully moves the Court for summary judgment in its favor on the ground that there are no genuine issues as to any material fact and defendant is entitled to judgment as a matter of law. Rule 56, Federal Rules of Civil Procedure.

In support of this motion, defendant submits herewith a statement of material facts as to which there is no genuine issue, a memorandum of points and authorities, the affidavit of Dr. James B. Rhoads, Archivist of the United States (Government Exhibit 1), and the affidavit of Charles A. Briggs, Chief of the Services Staff for the Directorate of Operations, Central Intelligence Agency (Government Exhibit 2).

EARL J. SILBERT
United States Attorney

ROBERT N. FORD
Assistant United States Attorney

MICHAEL J. RYAN
Assistant United States Attorney

Certificate of Service

I HEREBY CERTIFY that service of the foregoing Defendant's Motion for Summary Judgment together with supporting Statement of Material Facts, memorandum of points and authorities, proposed Order and Exhibits has been made upon plaintiff by mailing a copy thereof to James Hiram Lesar, Esq., 1231 4th Street, S.W., Washington, D. C: 20024 on this 26th day of March, 1976.

MICHAEL J. RYAN
Assistant United States Attorney
U.S. District Courthouse
Room 3421
Washington, D. C. 20001

Telephone: 426-7375

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

-v-

GENERAL SERVICES ADMINISTRATION,

Defendant

Civil Action No. 75-1448

STATEMENT OF MATERIAL FACTS AS TO
WHICH THERE IS NO GENUINE ISSUE

In support of its motion for summary judgment and in conformance with Local Rule 1-9(h), defendant submits herewith a statement of material facts as to which it contends there is no genuine issue:

1. On March 12, 1975, relying on the provisions of the Freedom of Information Act, plaintiff requested disclosure of certain Warren Commission executive session transcripts (Exhibit A to the complaint).

2. On April 4, 1975, by letter from Assistant Archivist Edward G. Campbell, defendant granted plaintiff's request in part and denied disclosure of:

A. The Warren Commission executive session transcript of May 19, 1964;

B. The Warren Commission executive session transcript of June 23, 1964; and

C. Pages 63-73 of the January 21, 1964 Warren Commission executive session transcript (Exhibit B to the complaint).

3. On April 15, 1975, plaintiff appealed the denial of these materials to the Deputy Archivist (Exhibit C to the complaint).

4. On May 22, 1975, by letter from the Deputy Archivist, defendant affirmed the decision denying disclosure of these transcripts (Exhibit D to the complaint).

5. On September 4, 1975, plaintiff filed the instant action in the United States District Court for the District of Columbia to compel disclosure of the withheld documents.

EARL J. SILBERT
United States Attorney

ROBERT N. FORD
Assistant United States Attorney

MICHAEL J. RYAN
Assistant United States Attorney

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

-v-

GENERAL SERVICES ADMINISTRATION,

Defendant

Civil Action No. 75-1448

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT

Preliminary Statement

Relying on the provisions of the Freedom of Information Act (FOIA) plaintiff brings this action to compel defendant to disclose two transcripts and a portion of a third transcript of the executive sessions of the Warren Commission. On March 12, 1975, plaintiff wrote to the Archivist of the United States, Dr. James B. Rhoads, and requested disclosure of

1. The executive session transcripts of December 6, 1963, and May 19, and June 23, 1964;
2. Pages 43-68 of the December 5, 1963 executive session transcript;
3. Pages 23-32 of the December 16, 1963 executive session transcript;
4. Pages 63-73 of the January 21, 1964 executive session transcript; and
5. The reporter's notes for the January 22, 1964 executive session.

The documents requested were disclosed with the exception of the

transcripts of May 19, 1964 and June 23, 1964, and pages 63-73 of the January 21, 1964 transcript.

Defendant maintains that the June 23, 1964 transcript and pages 63-73 of the January 21, 1964 transcript are protected by exemptions 1 and 3 of the FOIA, 5 U.S.C. 552(b)(1) and (3), and that all three transcripts are protected by exemption 5, 5 U.S.C. 552(b)(5). In addition, defendant contends that the May 19, 1964 transcript is protected by exemption 6, 5 U.S.C. 552(b)(6). Each of these exemptions will be discussed seriatim.

Argument

1. The June 23, 1964 Executive Session Transcript and Pages 63-73 of the January 21, 1964 Executive Session Transcript of the Warren Commission Are Protected From Disclosure By 5 U.S.C. 552(b)(3)

The third exemption to the FOIA permits the withholding of materials "specifically exempted from disclosure by statute . . ." 5 U.S.C. 552(b)(3). It bears emphasis that Exemption 3 preserves intact any authority an agency is granted by statute to protect or withhold information, including documents subject to the Information Act. Administrator, Federal Aviation Administration v. Robertson, 95 S. Ct. 2140 (1975). In other words, "Exemption 3 differs from the other exemptions enumerated in the FOIA in that its applicability does not depend on the factual contents of the specific documents, and therefore in camera inspection by the Court would be unnecessary and inappropriate * * *." National Airlines Inc. v. Civil Aeronautics Board, et al., D. D.C., Civil Action No. 75-613 (Memorandum and Order dated October 10, 1975).

Here, two transcripts are protected by statute, as specified²
at Paragraphs 2 and 4 of the Briggs affidavit (Government Exhibit 1)
and paragraph 9 of the Rhoads affidavit (Government Exhibit 2).
Specifically, 50 U.S.C. 403(d)(3) provides "That the Director of
Central Intelligence shall be responsible for protecting intelligence
sources and methods from unauthorized disclosure" Thus, the
Senate Report on the 1974 amendments to the FOIA (S. Rept. No. 93-854,
93d Cong., 2d Sess.) states:

By statute certain special categories of sensitive
information * * * intelligence sources and methods
(50 U.S.C. §403(d)(3)(G)) - must be given special
protection from unauthorized disclosure. These
categories of information have been exempted from
public inspection under Section 552(b)(3),
'specifically exempted from disclosure by statute,'
and (b)(1), 'specifically required by executive
order to be kept secret in the interest of the
national defense or foreign policy.'

The Conference Report is in accord with the Senate Report
discussion on this point. (Conference Rept., S. Rept. No. 93-1200,
p. 12.) Especially in view of the Briggs affidavit, it can be
plainly seen that 50 U.S.C. 403 protects two of the transcripts
plaintiff seeks. Accordingly, plaintiff may not obtain access to
the transcripts under the terms of the FOIA.

II. The June 23, 1964 Executive Session
Transcript and Pages 63-73 of the
January 21, 1964 Executive Session
Transcript of the Warren Commission
Are Protected From Disclosure By
5 U.S.C. 552(b)(1)

Both the Briggs and Rhoads affidavits reflect that two of the
transcripts sought by plaintiff herein are currently classified
as "confidential" and have been determined to warrant this
classification. Exemption 1, 5 U.S.C. 552(b)(1), was intended by
Congress to protect material whose release would be harmful to the
national defense and foreign policy as determined by the Executive

in accordance with Executive Orders. The 1974 amendments to the FOIA narrowed Exemption 1's scope to an extent. At the same time, the Congress considered the revised Exemption 1 as according the Executive broad powers to protect material:

However, the conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insights into what adverse effects might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that Federal courts, in making de novo determinations in Section 552 (b)(1) cases under Freedom of Information law, will accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record.

[93d Cong., 2d Sess., S. Rept. No. 93-1200, p. 12 (the Conference Report).]

The Senate Report likewise states that amended Exemption 1 "does not allow the Court to substitute its judgment for that of the agency * * * only if the Court finds the withholding to be without a reasonable basis under the applicable Executive order or statute may order the documents released." (S. Rept. No. 93-854, 93d Cong., 2d Sess., p. 16.) In keeping with these criteria, the Briggs and Rhoads affidavits establish that Exemption 1 protects two of the transcripts plaintiff seeks. Wolfe v. Froehke, 510 F.2d 654 (D.C. Cir. 1974). See also Alfred A. Knopf, Inc. v. Colby, 509 F.2d 1362 (4th Cir. 1975) (plaintiffs have filed a petition for a writ of certiorari). Accordingly, for this reason, defendant's motion for summary judgment should be granted.^{1/}

^{1/} All of the reports by congressional committees preceding enactment of the 1974 FOIA amendments confirm that in camera inspection is not required and the Court should first attempt to resolve the matter without in camera inspection. (S. Rept. No. 93-854, 93d Cong., 2d Sess., p. 15; H. Rept. No. 93-876, p. 8; S. Rept. No. 93-1200 (the Conference Report), pp. 9, 12).

III. All Three Documents Sought By
Plaintiff Are Protected From
Disclosure by 5 U.S.C. 552(b)(5)

The June 23, 1964 transcript, the May 19, 1964 transcript and pages 63-73 of the January 21, 1964 transcript are protected from compelled disclosure by Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5). Indeed, the fact that the transcripts reflect executive sessions of the Commission goes a long way toward establishing applicability of Exemption 5. Thus, Exemption 5 protects documents "disclosure of which 'would be "injurious to the consultative functions of the Government"". NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 149 (1975). In other words, "the policy of protecting the 'decision-making processes of Government agencies' is incorporated in Exemption 5." NLRB v. Sears, Roebuck & Co., *supra*, 421 U.S. at Page 150. Just as appellate courts necessarily must meet in Executive Session, so must an Executive Branch Commission. Whatever the outer perimeter of Exemption 5, it plainly protects the deliberations at such Executive sessions. NLRB v. Sears, Roebuck & Co., *supra*; The Renegotiation Board v. Grumman Aircraft Engineering Corp., 421 U.S. 168 (1975); Environmental Protection Agency v. Mink, 410 U.S. 73 (1973). Montrose Chemical Corp. v. Train, 491 F.2d 63 (D.C. Cir. 1974); Washington Research Project, Inc. v. HEM, 504 F.2d 238 (D.C. Cir. 1974), *cort. denied*, - U.S. -. See also National Courier Association v. Board of Governors of Federal Reserve System, 516 F.2d 1229, 1241-1243 (D.C. Cir. 1975).

IV. The May 19, 1964 Executive Session
Transcript of the Warren Commission
Is Protected From Disclosure By 5
U.S.C. 552(b)(5)

One of the transcripts, as described in Paragraph 10 of the Rhoads affidavit, is withheld because it relates solely to discussion of the continued employment of two Commission staff members. As such, it is plainly protected from release by

Exemption 6 to the FOIA.

In enacting Exemption 6, Congress protected against an individual suffering "a clearly unwarranted invasion of personal privacy" (5 U.S.C. §552(b)(6)). The Court of Appeals has recently observed and considered the difficult privacy issues which are posed even where the plaintiff has a special need for the documents which may redound to the benefit of those individuals whose names and addresses are sought. Ditlow v. Schultz, 517 F.2d 166 (D.C. Cir. 1975). Thus, under Exemption 6, home addresses have been withheld where the addresses are "information that the individual may fervently wish to remain confidential or only selectively released." Wine Hobby USA, Inc. v. United States Internal Revenue Service, 502 F.2d 133, 137 (3d Cir. 1974). The possibility of invasion of privacy should be seriously considered. See Rural Housing Alliance v. Department of Agriculture, 498 F.2d 73 (D.C. Cir. 1974). See also the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. §552(a) where Congress limited the power of the Government to disseminate information pertaining to individuals. In passing the Privacy Act, the Congress found that "the privacy of the individual is directly affected by the collection, maintenance, use and dissemination of personal information by Federal agencies." (Public Law 93-579, §2(a)(1).) In the light of the principles reflected by the congressional enactments and decided cases, Exemption 6 plainly protects a Commission's discussion regarding the continued employment of two of its personnel.

Conclusion

For the foregoing reasons, defendant respectfully requests the Court to grant the instant motion and to dismiss this action.^{2/}

EARL J. SILBERT
United States Attorney

ROBERT N. FORD
Assistant United States Attorney

MICHAEL J. RYAN
Assistant United States Attorney

^{2/} We have not discussed the applicability of Exemption 75 U.S.C. 552(b)(7)(E) and (8), relied upon at paragraph 9(d) of the Rhoads affidavit, since the material covered thereby is also covered by Exemptions 1, 3 and 5, discussed supra.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

-v-

GENERAL SERVICES ADMINISTRATION,

Defendant

Civil Action No. 1448-75

O R D E R

Upon consideration of defendant's motion for summary judgment and the entire record herein, and it appearing to the Court that there are no genuine issues as to any material fact and that defendant is entitled to judgment as a matter of law, it is by the Court this ____ day of _____, 1976

ORDERED that defendant's motion is hereby granted and the instant action is hereby dismissed.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

NATIONAL ARCHIVES AND RECORDS SERVICE,

Defendant.

Civil Action No. 75-1448

DISTRICT OF COLUMBIA) ss.:
CITY OF WASHINGTON)

I, JAMES B. RHOADS, Archivist of the United States, National Archives and Records Service, General Services Administration, Eighth and Pennsylvania Avenue, N. W., living at 6502 Cipriano Road, Lanham, Maryland, do hereby solemnly swear:

1. I have read and am familiar with the allegations contained in the plaintiff's complaint in the case of Weisberg v. National Archives and Records Service, Civil Action No. 75-1448, United States District Court for the District of Columbia.
2. At all times relevant to the circumstances of the complaint, I have served in the position of Archivist of the United States.
3. The General Services Administration [GSA], acting through the National Archives and Records Service [NARS], serves as the successor agency to the President's Commission on the Assassination of President Kennedy, popularly known as the Warren Commission (hereinafter, the "Commission").
4. Over the years that the National Archives has maintained custody and control over the records of the Commission and other documents and materials relevant to the assassination of President Kennedy, it has striven to make increasing numbers of these materials available for public access. In some instances, NARS has opened these materials subsequent to Freedom of Information Act requests for access, many of which were instituted by the plaintiff. To date, well over 90% of these materials are available for public inspection, and, in the case of documentary materials, copies are provided upon request.

5. Among the Commission records in the custody and control of the National Archives are the transcripts of those meetings in which the members of the Commission met in executive session. Although the Commission may have met in executive session on more occasions, the National Archives has in its possession the transcripts of twelve meetings and the minutes of a thirteenth.

6. At the time of their accessioning into the National Archives, the Commission had classified and marked each of the transcripts "Top Secret" (see Exhibit A, a copy of an affidavit with attachments, dated April 8, 1974, of J. Lee Rankin, General Counsel of the Commission). At regular intervals over the years in which the National Archives has had custody and control of these transcripts, it has conducted classification reviews of these documents to determine if any of them should be downgraded or declassified. In accordance with applicable provisions of law, these reviews have been conducted with the assistance of those agencies of the Federal Government which have subject matter interest in the particular transcripts. The most recent review of those transcripts which remained security classified was conducted in conjunction with the implementation of the recent amendments to the Freedom of Information Act and coincided with plaintiff's administrative request for access to those transcripts that remained closed at the time of the amendments.

7. As a result of these reviews, only the transcript of June 23, 1964, and pp. 63-73 of the transcript of January 21, 1964, remain classified, and they have been downgraded to the "Confidential" level. These transcripts remain classified at the request of the Central Intelligence Agency, which agency has subject matter interest in the information contained within these transcripts. Further, the CIA has informed us that, should there be any question concerning the authority of the Warren Commission to classify documents, these transcripts shall be classified pursuant to the authority of the CIA to do so (see Exhibit B, a copy of a letter to me from Robert S. Young, CIA Freedom of Information Coordinator, dated May 1, 1975).

8. With the exception of names and other identifying details deleted from the transcript of a meeting in which the members discussed the qualifications of potential staff members, all of the transcripts and minutes except those at issue in this litigation, i.e., the transcript of May 19, 1964, the transcript of June 23, 1964, and pp. 63-73 of the transcript of January 21, 1964, are available for public inspection and copying.

9. In accordance with the instructions and recommendations of the Central Intelligence Agency, the National Archives maintains the security classification of the transcript of June 23, 1964, and pp. 63-73 of the transcript of January 21, 1964, at the "Confidential" level, and withholds these records from public access. In denying public access, NARS relies on those statutory exceptions to mandatory disclosure under the Freedom of Information Act which are pertinent to these materials. These include:

(a) The first exemption, 5 U.S.C. 552(b)(1), which permits the withholding of materials "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order" These transcripts are properly classified pursuant to the criteria established in Executive Order 11652 (37 F.R. 5209 (March 10, 1972); 3 CFR 1974 Ed., p. 339).

(b) The third exemption, 5 U.S.C. 552(b)(3), which permits the withholding of materials "specifically exempted from disclosure by statute . . .". The specific statute which is pertinent 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)). In withholding access pursuant to this statute, the Archivist of the United States or his delegates within the National Archives and Records Service act as agents for the Director of Central Intelligence or his delegates (see Exhibit B).

(c) The fifth exemption, 5 U.S.C. 552(b)(5), which permits the withholding of "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" These transcripts are the written record of the times when the Commission members met to express their individual ideas, opinions, conclusions and recommendations to the other members. The subject matter of the meetings included the Commission's methods of gathering evidence, the personnel of the Commission staff, the Commission's goals and public image, as well as a discussion of the evidence before the Commission. On several occasions individual commissioners expressed the opinion that their views and those of the other commissioners were given and should be maintained in confidence. As these transcripts clearly reflect the deliberative process of the Commission, NARS has determined that they may properly be withheld from public disclosure under the cited exemption.

(d) Paragraphs (D) and (E) of the seventh exemption, 5 U.S.C. 552(b)(7)(D) and (E), which permit the withholding of

investigatory records compiled for law enforcement purposes but only to the extent that the production of such records would . . . (D) disclose the identity of a confidential source and, in the case of a record compiled . . . by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source [or] (E) disclose investigative techniques or procedures

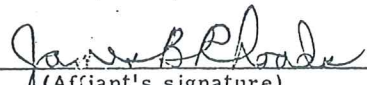
The pertinent transcripts reveal the identity of a source of national security intelligence information as well as information obtained from that source. They further reflect a discussion of intelligence methods and techniques that had been employed in gathering the existing information or could be employed in gathering additional information. Because the United States District Court has previously ruled that the executive session transcripts of the Warren Commission were "investigatory files compiled for law enforcement purposes," (Weisberg v. General Services Administration, Civil Action No. 2052-73 (D. D. C., May 3, 1974)), the National Archives and Records Service maintains that the

seventh exemption, as amended, remains a valid basis for withholding access to the transcript of June 23, 1964, and pp. 63-73 of the transcript of January 21, 1964.

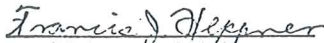
10. The transcript of May 19, 1964, is no longer security classified. Moreover, the subject matter of the transcript has nothing to do with the Commission's investigation of the assassination of President Kennedy or the murder of Lee Harvey Oswald.

Rather, the Commission met in executive session on May 19, 1964, solely to discuss the continued employment of two of its staff members. The reasons which gave rise to the Commission's concern over their continued employment had nothing to do with their performance as employees, but with certain alleged aspects of their personal histories. To release this transcript would "constitute a clearly unwarranted invasion of [the] personal privacy" of these individuals. Moreover, because of contemporaneous news accounts rumoring complaints about these employees, the deletion of their names and other identifying details would not succeed in protecting their identities. Therefore, we have withheld access to the entire transcript on the basis of the sixth exception to mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(6)). As explained in subparagraph 9(c), above, we have also withheld this transcript pursuant to the fifth statutory exemption, 5 U.S.C. 552(b)(5)).

I have read the above statement, consisting of 5 pages, and it is true and complete to the best of my knowledge and belief. I understand that the information I have given is not to be considered confidential and that it may be shown to the interested parties to this action.


(Affiant's signature)

Subscribed and sworn to before me at Eighth and Pennsylvania Avenue, N.W.,
Washington, D.C., on this sixth day of October 1975.


(Notary Public)

My commission expires: Aug. 31, 1979

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

----- x

HAROLD WEISBERG, :

Plaintiff, :

v. : Civil Action No. 2052-73

GENERAL SERVICES ADMINISTRATION, :

Defendant. :

----- x

STATE OF NEW YORK)

COUNTY OF NEW YORK) ss.:

CITY OF NEW YORK)

I, J. LEE RANKIN, living at 35 Sutton Place, New York, New York, do hereby solemnly swear:

1. From December 8, 1963, I served as General Counsel of the President's Commission on the Assassination of President Kennedy (Warren Commission).

2. Shortly after I had assumed the duties of General Counsel of the Commission, I was instructed by the Commission that among my duties was the responsibility to security classify at appropriate levels of classification those records created by the Commission in its investigation and report that should be security classified under existing Executive order. The Commission's authority to classify its records and its decision to delegate that responsibility to me existed pursuant to Executive Order 10501, as amended.

3. As agreed to by the Commission, I ordered that the transcripts of certain of the Commission executive sessions, including that of January 27, 1964, be classified "Top Secret," and I communicated the fact of said classification to Ward & Paul, transcribers of the executive sessions (see attached copies of correspondence between Ward & Paul and me).

I have read the above statement, consisting of two pages, and it is true and complete to the best of my knowledge and belief. I understand that the information I have given is not to be considered confidential and that it may be shown to the interested parties.

J. Lee Rankin
J. LEE RANKIN

Subscribed and sworn to before me
at *New York, New York*
on this *8th* day of April, 1974.

Paul F. Cirillo

PAUL F. CIRILLO
Notary Public, State of New York
No. 59-5529750
Qualified in Nassau County
Cert. Filed with the New York Co. Clerk
Commission Expires March 30, 1976

1008
Rankin J. H.

JL/ste

December 21, 1954

Honorable Edward L. Boutin
Administrator, General Services
Administration
Washington, D. C.

Dear Mr. Boutin:

Pursuant to Executive Order 11130 of November 29, 1953, the Members of the President's Commission to Investigate the Assassination of President Kennedy, at a meeting of the Commission on December 6, 1953, agreed to solicit the services of J. Lee Rankin as General Counsel for the Commission. Mr. Rankin officially accepted the appointment on December 6, 1953.

Sincerely,

Chairman

WARD & PAUL
SHORTHAND REPORTERS
917 G STREET, N.W.
WASHINGTON, D. C.
826-4266

WARD & PAUL
917 G STREET, N.W.
WASHINGTON, D. C.

LEE L. WARD, JR.

OFFICIAL REPORTERS FOR
CONGRESSIONAL COMMITTEES

January 7, 1964

Hon. J. Lee Rankin, General Counsel,
Presidential Commission on the
Assassination of President Kennedy,
200 Maryland Avenue, N. E.,
Washington, D. C. 20002.

Re: Stenographic Reporting

Dear Sir:

Pursuant to our conversation of yesterday, in which a general outline of reporting services and needs was discussed, and at which time you asked for a statement of prices for work performed, I am happy to submit the following schedule of charges:

Original and two copies	\$1.65 per page	(Total)
4th copy	.15 per page	\$ 1.80
5th copy	.15 per page	1.95
6th copy	.15 per page	2.10
7th copy	.15 per page	2.25
8th copy	.15 per page	2.40
9th copy	.10 per page	2.50
10th to 20th copies	.05 per page	3.05
21st to 25th copies	.02 per page	3.15

The first eight copies are at the current Congressional rate for closed sessions, no sales permitted; the ninth and succeeding copies reflect a multiple copy rate with decreasing costs due to higher production of copies.

It is contemplated that the reporting services will be performed in Washington, D. C., and that transcription and duplication will be in the premises of Ward & Paul at the address given above. The work will be given Top Secret or Secret classification, so marked on each volume, volumes numbered in accordance with security regulations, and receipts obtained for material passing between the Commission and our firm. If desired, notes, waste paper and other materials will be delivered to the Commission daily, with the delivery of each transcript, or they can be retained by us, under security, and destroyed from time to time. I would suggest that all waste material be destroyed weekly, and the notes be turned over to the Commission at the end of each week, this for possible reexamination of any necessary page or phrase which might need it.

Mr. Rankin.

All reporting will be done on a Daily Copy basis, that is, work reported on one day will be delivered by 9:00 a. m. the following day, unless there is a night session, in which case the portion reported during the day will be delivered as indicated, and the night session delivered during the following day.

Only personnel having the full necessary clearance will be used in any phase of handling the work of the Commission.

In event reporting services are needed outside of the City of Washington, we will be able to service the hearing with reporter and typist, prepared to deliver a minimum number of copies in the field, perhaps an original and one copy, and forward the necessary copy back to Washington for duplication and delivery to the Commission as early as possible. Travel and other such expenses will be borne by the Commission in this event, to be thoroughly vouchered by the personnel involved.

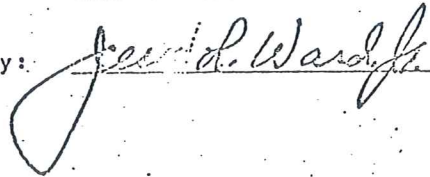
Please excuse this lengthy letter, but we feel that it is better to lay a proper groundwork for mutual understanding of the different phases of work involved.

Please allow me to thank you, sir, for the time you took to talk with me, and for your understanding of our problems. It is our hope that we may be chosen to serve the Commission, and that we may do so in a manner that will reflect credit on those who have been kind enough to suggest our firm for the work.

Respectfully submitted,

WARD & PAUL

By:



MEMO
1/7/64

JAN 8 1964

Mr. Jesse W. Ward, Jr.
Ward & Paul
917 G Street, N.W.
Washington 1, D. C.

Dear Mr. Ward:

Thank you for your letter of January 7, 1964, setting forth the schedule of charges for your reporting service.

The arrangements set forth in your letter are satisfactory to me and I am confident that your organization will be of great assistance to this Commission. I would like you to handle the reporting of the meetings of the Commission as well as our hearings outside the city which may be held by the Commission. I shall advise you of the date of the next Commission meeting as soon as possible.

Thank you for your promptness in supplying me with this information.

Sincerely,

J. Lee Rankin
General Counsel

How
likely
J. L. R.

~~Investigation of ...~~

JLR/TH

May 2, 1953

Mr. and Mrs.
W. G. Stewart, III
Washington, D. C. 20031

Compliments

This is to inform you that all of this date all top secret
and testimony handled by your firm for the Commission will be
classified as confidential rather than top secret. The records
of the Commission will continue to be classified top secret.

Very truly yours,

J. Lee Rankin
General Counsel

EXHIBIT B
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Received HA-W
MAY 5 1975

1 MAY 1975

Dr. James B. Rhoads
Archivist of the United States
National Archives and Records Service
Room 111, Archives Building
Seventh Street and Pennsylvania Avenue, NW
Washington, D.C. 20408

Dear Dr. Rhoads:

On 21 March 1975, Marion M. Johnson of the Civil Archives Division transmitted to this Agency for review certain Warren Commission documents requested under the Freedom of Information Act by James H. Lesar, on behalf of his clients, Harold Weisberg and Paul Hoch. The documents were the transcript of the executive session of 23 June 1964 and pp. 63-73 of the transcript of the executive session of 21 January 1964. I regret the delay in responding, which was due in part to missing pages. It is my understanding that these documents are currently the subject of an appeal from Mr. Lesar.

Mr. Johnson also asked the Agency to review p. 3 of the transcript of the executive session of 6 December 1963. He was informed by telephone that the CIA had no objection to the release of this page to Mr. Lesar. This letter confirms that position.

With regard to the documents cited in the first paragraph, it is our judgment that both transcripts must be denied under subsection (b)(1) of the Freedom of Information Act in order to protect sources and methods and other information related to our operational equities. The documents, under the criteria of Executive Order 11652, warrant classification at the Confidential level and exemption from the General Declassification Schedule pursuant to Sec. 1(B)(2) and (3) of the Order. It is impossible at this time to determine



a date or event for automatic declassification. If there is any question concerning the authority of the Warren Commission to classify national security information, the Archivist should mark the documents appropriately, citing this letter as authority.

We have investigated the possibility of releasing segregable portions of the transcripts, but have concluded that the extensive deletions required would result in an incoherent text.

The official who made the decision to deny the two transcripts is Charles A. Briggs, Chief of the Services Staff.

Sincerely,

Robert S. Young
Robert S. Young

Freedom of Information Coordinator

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

v.

Civil Action No. 75-1448

NATIONAL ARCHIVES AND RECORDS
SERVICE,

Defendant

AFFIDAVIT

Charles A. Briggs being first duly sworn, deposes and says:

1. I am Chief of the Services Staff for the Directorate of Operations of the Central Intelligence Agency and am familiar with the contents of the complaint in this case and make the following statements based on personal knowledge obtained by me in my official capacity.

2. Pages 63-73 of the transcript record an executive session of the President's Commission on the Assassination of President Kennedy which session was held on 21 January 1964. I have determined that the information contained in these pages is classified, and that it is exempt from the General Declassification Schedule pursuant to section 5(B)(2) of Executive Order 11652.

3. This portion of the transcript deals entirely with the discussion among the Chairman of the Commission, Chief Justice Warren; the General Counsel of the Commission, Mr. Rankin; and Messrs. Dulles, Russell, Boggs, McCloy,

GOVT EX. 2

and Ford, Commission members. The matters discussed concerned tactical proposals for the utilization of sensitive diplomatic techniques designed to obtain information from a foreign government relating to the Commission's investigation of the John F. Kennedy assassination. The specific question discussed concerned intelligence sources and methods to be employed to aid in the evaluation of the accuracy of information sought by diplomatic means. To disclose this material would reveal details of intelligence techniques used to augment information received through diplomatic procedures. In this instance, revelation of these techniques would not only compromise currently active intelligence sources and methods, but could additionally result in a perceived offense by the foreign nation involved with consequent damage to United States relations with that country.

4. Pages 7640-7651 of the transcript record an executive session of the President's Commission on the Assassination of President Kennedy which was held on 23 June 1964. I have determined that the information contained in these pages is classified, and that it is exempt from the General Declassification Schedule pursuant to section 5(B)(2) of Executive Order 11652.

5. This portion of the transcript deals with a discussion among the Chairman of the Commission, Chief Justice Warren; the General Counsel of the Commission, Mr. Rankin; and Messrs. Ford and Dulles, Commission members. The matters discussed concern intelligence methods used by the CIA to determine the accuracy of information held by the Commission.

Disclosure of this material would destroy the current and future usefulness of an extremely important foreign intelligence source and would compromise ongoing foreign intelligence analysis and collection programs.

Charles A. Briggs
Charles A. Briggs

STATE OF VIRGINIA)
) ss.
COUNTY OF FAIRFAX)

Subscribed and sworn to before me this 5th day of November, 1975.

J. Helen Conn
Notary Public

My commission expires: March 15, 1977.