

- 1 - D. J. Dalbey
- 1 - E. S. Miller
- 1 - W. A. Branigan
- 1 - J. P. Thomas

RA

Committee To Investigate Assassinations BY COURIER

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Date: September 22, 1972
 To: Director
 Central Intelligence Agency
 From: L. Patrick Gray, III, Acting Director
 Subject: FREEDOM OF INFORMATION ACT REQUEST -
 BERNARD FENSTERWALD, JR.

~~X~~
 Bernard Fensterwald, Jr., Washington, D. C., attorney, has made application to the Department of Justice under provisions of the Freedom of Information Act for access to "Twenty (20) photographs of 'white male Americans' referred to at the bottom of page 4 of an FBI Report of February 24, 1964, which was Warren Commission Document 506, which was declassified on Jan. 24, 1971." In a cover letter dated August 23, 1972, to the Deputy Attorney General, transmitting Form DJ-113 regarding the aforementioned photographs, Mr. Fensterwald stated that it is his desire to examine those photographs and any records which relate to identification of the persons photographed.

REC-21 62-112697-19

The "FBI Report" mentioned by Mr. Fensterwald is actually an FBI memorandum, a copy of which was furnished to you as an enclosure to my letter dated June 16, 1972, entitled "Bernard Fensterwald, Jr. v. Department of Justice, USEC D.C., Civ. No. 361-72." The specific photographs involved in Mr. Fensterwald's current requests are those mentioned in the final paragraph on page 4 of that memorandum. Neither the photographs sought nor copies of them were located through a search of FBI Headquarters files. Inquiry was made of our Legal Attache, Mexico City, Mexico, regarding the photographs and he advised that the photographs sought were received by him from your Mexico City Station on February 19, 1964. They were not entered into the files of our Mexico City Office and it appears that, following their display to Pedro Gutierrez Valencia, they were returned to your representatives in Mexico. On September 13, 1972,

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- Felt _____
- Baker _____
- Bates _____
- Bishop _____
- Callahan _____
- Cleveland _____
- Conrad _____
- Dalbey _____
- Jenkins _____
- Marshall _____
- Miller, E.S. _____
- Under _____

62-112697
 158905-32555 (Lee Harvey Oswald)
 1 - 62-81239 (FOI Act)
 JPT:dld/pld (10)

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 (circled initials)
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 JPT

MAIL ROOM TELETYPE UNIT

SEE NOTE PAGE THREE

Director
Central Intelligence Agency

your Mexico City Station advised the Legal Attache that the photographs are not available at Mexico City, but may be available at your Headquarters.

In order that this Bureau may respond to the request of the Deputy Attorney General regarding preparation of a response to Mr. Fensterwald's request, would your Agency please furnish the following information:

1. Are the 20 photographs displayed to Gutierrez or copies of them in the possession of your Agency?

2. Are any records relating to identification of the persons photographed currently in possession of your Agency?

3. What is the current security classification of the photographs and of records pertaining to them?

4. If the photographs and/or records pertaining to them are available, would your Agency object to the release to Fensterwald of them?

5. If your Agency would oppose release of any of your aforementioned material, can you suggest reasons why, in your opinion, they should not be released? Such reasons should relate as directly as possible to provisions of the Freedom of Information Act. Any exemption should be specifically identified and discussed. If appropriate, a statement of facts demonstrating the manner in which production of the photographs and/or records requested would prejudice the operations of your Agency should be included.

Inasmuch as Mr. Fensterwald has in the past instituted civil action against the Department of Justice within a relatively short time after having requested access to official records under provisions of the Freedom of Information Act, a prompt response to this inquiry would be appreciated.

1 - The Deputy Attorney General

Director
Central Intelligence Agency

NOTE:

Fensterwald, head of the "Committee to Investigate Assassinations," has made repeated requests for information relating to the assassination of President John F. Kennedy and has sued the Government to obtain such information on at least two occasions. He now seeks 20 photographs, which Legat, Mexico, showed to Gutierrez on 2/20/64 in an attempt to identify an individual Gutierrez claimed was Lee Harvey Oswald and whom Gutierrez claimed to have seen in Mexico City on 10/1/63. Inasmuch as Gutierrez did not recognize the subjects of any of the photographs, they were not retained by Legat, Mexico. By letter dated 9/15/72 we informed the Deputy Attorney General that the photographs were not at FBI Headquarters and that we were attempting to locate them through Legat, Mexico.

4/17