



Office of the Attorney General
Washington, D. C. 20530

FEB 25 1975

James H. Lesar, Esquire
1231 Fourth Street, S.W.
Washington, D.C. 20024

Dear Mr. Lesar:

This letter responds to your January 15, 1975 letter in which you appeal in behalf of Mr. Weisberg what you view as the denial of access under the Freedom of Information Act to FBI spectrographic and neutron activation and other tests performed by the Bureau in connection with the Warren Commission's investigation of President Kennedy's assassination. You also seek to renew an appeal of Mr. Weisberg from the Special Prosecutor's July 15, 1973 denial of access to items of court evidence in the Watergate case.

You have apparently misunderstood Director Kelley's December 19, 1974 reply to Mr. Weisberg's November 27, 1974 request. That request expressly asked for processing under the 1974 Amendments to the Freedom of Information Act, which were not effective until February 19, 1975. The Department issued regulations for their implementation only last week, which regulations were likewise effective February 19; and general Departmental guidance concerning interpretation and application of the Amendments has just been distributed.

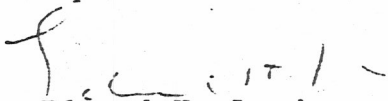
Under these circumstances, Director Kelley felt constrained to defer final disposition of Mr. Weisberg's request, though the Bureau has proceeded with the task of identifying the requested materials. Some, which are clearly responsive, are contained in the National Archives and will be made available. There is, also, however, a great bulk of material which does not reasonably come within Mr. Weisberg's specification of "final reports".

The Bureau is willing to discuss with Mr. Weisberg the nature of these materials to ascertain whether he is interested in having access to them. I urge you to pursue these matters directly with the Bureau--which will in any event act upon this matter within the time limits (computed from February 19) established by the new Amendments.

With regard to your desire to "renew" an appeal from the Special Prosecutor's denial of July 25, 1973: We have no record of any earlier appeal, and I must inform you that the thirty-day time limit set forth in 28 CFR § 16.7(a) precludes my entertaining an appeal at this time. No special circumstances have come to my attention which would explain or excuse the 1 1/2 year delay. I have nevertheless examined the merits of the matter and I am satisfied that the Special Prosecutor's denial was proper on the basis of Exemption (3) of the Freedom of Information Act. The material which Mr. Weisberg sought (the "released pages of the transcript of the grand-jury testimony of E. Howard Hunt") is not within the power of the Department of Justice to disclose by reason of Rule 6(e) of the Federal Rules of Criminal Procedure.

I may add that in the future, under the revised regulations for the Department which became effective February 19, 1975, I will not review on appeal the decisions of the Special Prosecutor under the Freedom of Information Act. Having received a denial of your request from him, you have exhausted your administrative remedies and are free to challenge his decision in the courts.

Sincerely,


Edward H. Levi
Attorney General