

Assistant Attorney General
Office of Legal Counsel

August 31, 1972

EX-104
REC-54
MCT:mm

Acting Director, FBI
100 - 112697-13
FREEDOM OF INFORMATION (FOI)
APPEAL TO ATTORNEY GENERAL BY
ROBERT P. SMITH

- 1 - Mr. Conrad
- 1 - Mr. Bates
- 1 - Mr. Bishop
- 1 - Mr. Dalbey
- 1 - Mr. Mintz

Your letter of July 19, 1972, captioned as above, requested copies of the records sought by Smith along with an explanation of our belief that substantial injury to the FBI might result from the release of the records. Our letter of July 25, 1972, advised the materials were being assembled. Enclosed are the copies you requested. Each is identified by a symbol (e.g. RPS #1) to match the several Smith requests.

RPS #1. This request calls for FBI Laboratory reports, quantitative test data and detailed Laboratory findings resulting from the neutron activation analyses (NAA) conducted on the paraffin casts taken by the Dallas police of the hands and right cheek of Lee Harvey Oswald. The detailed findings and conclusions arrived at by the FBI Laboratory examiner are fully set forth on page 532 of the Warren Report and in the testimony of Special Agent John F. Gallagher on pages 746-752 of Volume XV of the Warren Commission hearings. The examiner's notes which comprise a volume approximately two inches thick, consist of raw data; observational notes, and calculations from information observed and are of a technical nature having meaning only to the examiner. There are no duplicate copies of this material. A copy of the examiner's report of the results of examination dated March 6, 1964, is attached. If, in addition, a personal review of the raw notes is required, the examiner will be available upon request to provide the necessary minutes of the examination in the FBI Laboratory.

UNRECORDED COPY FILED IN 100-112697-13

SEP - 1 1972

RPS #2 (a). This request is for Warren Commission Document Number (CDN) 1269 which is a memorandum entitled, "Lee Harvey Oswald" dated July 14, 1964, at Dallas, Texas, (copy attached) which was transmitted to the General Counsel for the President's Commission by letter dated July 21, 1964, (copy attached) together with two color photographs and a film strip (color photographs attached). This

- Felt _____
- Baker _____
- Beane _____
- Bishop _____
- Callahan _____
- Cleveland _____
- Conrad _____
- Dalbey _____
- Jones _____
- Sullivan _____
- Tavel _____
- Tele. Room _____
- Holmes _____
- Gandy _____

DEC 6 - 1972

JAM:deh

'91

SEE NOTE PAGE THREE

SEP 12 1972

UNIT

422

Assistant Attorney General
Office of Legal Counsel

memorandum contains results of investigation conducted by our Dallas Office to locate photographs of a bone specimen which was found near the assassination site.

RPS #2 (b). This request advises that page 150-A of report of Special Agent Robert P. Gemberling, dated November 30, 1963, at Dallas, Texas, CDN #5 (copy attached) is referred to on page 54 of CDN #1395, report of Special Agent Gemberling dated August 5, 1964, at Dallas (copy attached) and page 46 of CDN #1518, report of Special Agent Gemberling dated September 19, 1964, at Dallas (copy attached) and which is not included in the materials at the National Archives. This page was recently sent to the National Archives and Smith may now request access to it at the Archives. This pertains to an interview of William Allen Harper concerning the location of a piece of bone near the assassination site.

RPS #3 (a). This request is for the advertisement described on page 40 of CDN #206, report of Special Agent Gemberling dated January 7, 1964, at Dallas (copy attached). This pertains to an advertisement of the Mershon Company, Los Angeles, California, which advertises Mershon Custom Walnut grips for handguns and contains the date "October, 1959" in longhand. An extensive search of Bureau files relating to the assassination at Bureau Headquarters and at our Dallas Office has failed to locate the advertisement referred to by Smith. There are over 400 volumes of files at FBI Headquarters relating to the Kennedy assassination. Mr. Marion Johnson, Archivist, National Archives and Records Service has advised that it is entirely possible that this item is located at the National Archives inasmuch as voluminous quantities of the material of this type were made available by the Warren Commission after the assassination, and efforts to locate items of this nature since then have been most difficult. Mr. Johnson concluded by saying that they have been unable to locate the advertisement or copies thereof in their files.

RPS #3 (b). This request calls for reports of FBI Laboratory examinations or other reports of investigation of the advertisement described above, or of its reverse side, whether or not furnished to the Warren Commission. A detailed review of FBI records and information available to the FBI Laboratory failed to reveal any

Assistant Attorney General
Office of Legal Counsel

record that this advertisement was ever submitted to the FBI Laboratory for examination, or that any examination of this advertisement was conducted by the Laboratory. FBI, Dallas, has advised that in all probability, the investigation concerning this advertisement by the FBI office at Los Angeles was submitted by airtel or teletype and summarized in the third paragraph of page 40 of CDN #206 (copy attached).

With the exception of Smith's request marked "RPS #2 (b)" which is now available in the Archives, we strongly recommend that the Department resist disclosure of the other information requested by Smith. FBI Laboratory notes and the resulting reports are part of the investigative files of the FBI and as such should be afforded exemption from disclosure. Moreover, compliance with Smith's request would establish an undesirable precedent. Release, upon request, of the raw and analytical data and examiner's notes in the thousands and thousands of technical examinations conducted in the FBI Laboratory would place an intolerably heavy burden on the FBI and greatly hamper our continued efficient operation. The examiner's findings based on his examinations are set forth in the printed record. Therefore, the purpose of Smith's request is not clear. We note that in view of the inherent nature of the technical work and the difficulty of interpretation of raw notes by anyone other than the examiner, any person not familiar with the technical examination involved would be unable to interpret them properly. A person so inclined could easily lift figures and data out of context and misrepresent their significance.

Other material in our investigative files should be protected from disclosure to avoid substantial injury to the FBI in that disclosure might reveal the identities of confidential sources of information and impede or jeopardize succeeding investigations by precluding or limiting the use of same or similar sources in the future. Further, disclosure should be resisted to avoid embarrassment of innocent persons.

Enclosures (8)

NOTE: Based on incoming letter from the Department, same caption, dated 7/18/72, and Bureau letter to Department same caption, dated 7/25/72, DJD:mfd.

John