

Central Intelligence Agency



Washington, D.C. 20505

28 FEB 1984

Mark A. Allen
c/o James H. Lesar, Esquire
Attorney at Law
1000 Wilson Blvd.
Suite 900
Arlington, VA 22209

Dear Mr. Allen:

This is in response to your Freedom of Information Act (FOIA) request of 13 August 1981 and the 29 October 1983 follow-up letter received from your attorney, James H. Lesar.

Our response is keyed to the paragraphs in your original letter:

1. All records contained in CIA file No. XAAZ-22594.
COMMENT: XAAZ-22954 is a letter and number designation assigned to the document; it is not a file indicator. The document in question is already known to you as CIA Document No. 509-0803, which was the subject of litigation between you and the CIA. You have already received a releasable version of that document. The deletions made in Document No. 509-0803 have been ruled appropriate by the D.C. District Court in your litigation with the Agency and the D.C. Circuit Court of Appeals has affirmed that ruling.
2. All records contained in CIA file No. 201-289248.
COMMENT: CIA has completed its review of the contents of this 201 file (belonging to Lee Harvey Oswald) and ancillary files. The Agency documents contained therein have been numbered from 0001-1B through 1650-1003C. Of the total of documents in these holdings, 1139 documents (4470 pages) have been prepared for release to the public. Not included in the 4470 pages are 2056 additional pages (at least) of newspaper clippings. These clippings are held in several batches each of which has been assigned a double number within the first 1363 documents. The numbers appear in the document disposition list with a notation that the "document" contains newspaper clippings, which will be reproduced upon request. To date no one has asked for them.

You may order these documents for a copying fee of ten cents per page. The total cost (including clippings) would be \$652.60. If you do not want the clippings then the cost would be \$447.00.

In addition to Agency-originated documents held in the Lee Harvey Oswald 201 and ancillary files, there are included a group of third agency documents. If you are interested in these documents, please advise, and we will request the originators to correspond directly with you concerning their current releasability status.

3. The photograph of Valeiry Vladimirovich Kostikov attached to CIA FOIA Document No. 509-0803. COMMENT: With regard to this request, we wish to point out that during the progress of your litigation with the Agency over Document No. 509-0803, you were advised by a sworn affidavit that despite the fact that Document No. 509-0803 indicated a copy of the photograph of KOSTIKOV was attached, there was, in fact, no such copy attached to the copy of Document No. 509-0803 that was retrieved in response to your request.

After an examination of the photograph attached to the unsanitized document No. 509-0803 held by the National Archives, it was determined that it is an appropriately classified document and is denied pursuant to FOIA exemptions (b)(1) and (b)(3). An explanation of these exemptions is enclosed.

4. A copy of Document No. 509-0803.... COMMENT: With regard to this request, we wish to point out that all the data as to classification required by Executive Order 12065 was set forth in Mr. Liebenau's affidavit, supplemented by the later affidavits of Mr. Dube, filed in Allen v. CIA, Civil Action 78-1743.

5. The public domain attachments to the in camera affidavit... COMMENT: The documents you identify as "the public domain documents" to Mr. Liebenau's affidavit of 9 February 1981 and your litigation with the Agency have been determined to be properly withheld when identified with Document No. 509-0803. That decision of the District Court was affirmed by the D.C. Circuit Court of Appeals. These documents are, therefore, exempt from disclosure pursuant to FOIA exemptions (b)(1) and (b)(3) as determined by both the District and Circuit Court of Appeals.

If you want copies of the available documents as discussed above, please send a deposit to the undersigned for one-half of the amount specified. The check or money order should be made payable to the Treasurer of the United States. Please mention our F81-0759 to ensure proper credit to your account.

We are holding your request in abeyance pending your reply to this letter.

Sincerely,

for Day Haran
for Larry R. Strawderman
Information and Privacy Coordinator

Enclosure

EXPLANATION OF EXEMPTIONS

FREEDOM OF INFORMATION ACT:

- (b)(1) applies to material which is properly classified pursuant to an Executive order in the interest of national defense or foreign policy;
- (b)(2) applies to information which pertains solely to the internal rules and practices of the Agency;
- (b)(3) applies to the Director's statutory obligations to protect from disclosure intelligence sources and methods, as well as the organization, functions, names, official titles, salaries or numbers of personnel employed by the Agency, in accord with the National Security Act of 1947 and the CIA Act of 1949, respectively;
- (b)(4) applies to information such as trade secrets and commercial or financial information obtained from a person on a privileged or confidential basis;
- (b)(5) applies to inter- and intra-agency memoranda which are advisory in nature;
- (b)(6) applies to information release of which would constitute an unwarranted invasion of the personal privacy of other individuals; and
- (b)(7) applies to investigatory records, release of which could (C) constitute an unwarranted invasion of the personal privacy of others, (D) disclose the identity of a confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.

PRIVACY ACT:

- (b) applies to information concerning other individuals which may not be released without their written consent;
- (j)(1) applies to polygraph records; documents or segregable portions of documents, release of which would disclose intelligence sources and methods, including names of certain Agency employees and organizational components; and, documents or information provided by foreign governments;
- (k)(1) applies to information and material properly classified pursuant to an Executive order in the interest of national defense or foreign policy;
- (k)(5) applies to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, or access to classified information, release of which would disclose a confidential source; and
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process.