2/4/70

Mr. H. Richards Kolapp, Special Assistant
to the Deputy Attorney General
Department of Justice
Washington, D.C.

Dear Mr. Kolapp,

Your letter of February 2 is hard for me to credit and in any event does not meet the clear requirement of the Attorney General's "Memorandum on the Public Information Section of the Administrative Procedure Act."

The material I seek is not alone the basis of a report made by, for and/or on behalf of the Attorney General of the United States, which would seem to require that it, in fact, be "in the files of" the Department of Justice. It is also part of a brief presented in court by the Department. It is only a year since use by your department. Are you telling me the Department usually cleanses its files in less than a year?

Or are you telling me the United States government has destroyed all such records? If they are not in the files of our Department, your Department certainly knows what it did with them, and this you are required to do something about. I quote from page 24 of the memorandum cited:

"...Every effort should be made to avoid encumbering the applicant's path with procedural obstacles when these essentially internal Government problems arise. Agencies generally should treat a referred request as if it had been filed with the agency to which the matter is ultimately referred". Now I would presume that the Department of Justice is the "agency" of "exclusive concern" when something by or for the Attorney General is involved, when a court record is involved, a court action and the presentation of evidence in court. This same peregraph also says, however, , "Where a record is requested which is of concern to more than one agency, the request should be referred to the agency whose interest in the record is paramount". It is then expected to "consult" with "the other interested agencies".

In short, if the Department of Justice is not the "agency whose interest in the record is paramount", as a layman would presume to be the case with Department of Justice business, you are still required to refer this matter to other interested agencies.

Should you persist in denying me these records to which I believe I am entitled, I ask that the refusal be signed by the Attorney General himself so I can proceed forthwith under the law without added, unnecessary procedural obstacles being placed in my path.

Sincerely,

Harold Weisberg