August 20, 1969

The Honorable John Mitchell
Attorney General
Washington, D. C. 20530

Dear Mr. Attorney General:

The undersigned have been retained by Mr. Harold Weisberg of Frederick, Maryland, to proceed under the Freedom of Information Act, P. L. 89-487, to obtain disclosure of two specific, identifiable Government records, copies of which are in the possession of the Department of Justice.

It is our view that, pursuant to Sec. 3 (c) of the Act, Mr. Weisberg is entitled to prompt access to these particular documents. However, despite numerous written requests over a period of months, not only has Mr. Weisberg been denied access to the records, he has not even received a reply to his repeated requests for the Department's rules relating to accessability of records under the Act. The files of your Department, especially these of the Criminal Division, contain copies of his various requests. After you have an opportunity to review this correspondence, you might understand Mr. Weisberg's sense of frustration, impatience, and anger, as well as his decision to file suit.

Nevertheless, it seems only reasonable that we should bring this matter to your attention before we file such a suit, in the hope that you will direct your subordinates to disclose these records to Mr. Weisberg, and thereby avoid the expense, both in time and money, of needless litigation.

The specific records requested by Mr. Weisberg are the following:

(1) All documents filed by the United States with the Court in England in June-July, 1968, in the extradition proceeding by which James Earl Ray, the convicted killer of Dr. Martin Luther King, was returned to this country. These proceedings were public, and in our

view, all documents submitted on behalf of the United States constitute public records which should be made available to any person who desires to see them.

As the attached letter of May 1, 1969, from the Chief Clerk of Bow St. Magistrate's Court states "all papers which had been sent to this Court from Washington" have been returned to Washington, and, as far as is known to the Clerk, no copies were retained in England. We realize that the original of the returned "papers" may still be in the possession of the Department of State, but, as the "papers" were prepared in the Department of Justice, we assume that copies were retained in your Department's files. It is those that Mr. Weisberg asks to see.

(2) In the District of Columbia Court of General Sessions, on January 16, 1969, in the case of State of Louisiana v. Clay L. Shaw, in response to an order to show cause directed to James B. Rhoads, Archivist of the United States, the Department of Justice filed a brief to which was appended a "1968 Panel Review of Photographs, X-Ray Film, Documents and Other Evidence Pertaining to the Fatal Wounding of President John F. Kennedy on November 22, 1963, in Dallas, Texas". A copy of this document is enclosed. Your attention is directed to page 5 of the "Review", and specifically to a reference in the middle of the page to a "memorandum of transfer, located in the National Archives, dated April 26, 1965". This memorandum refers to a transfer of the autopsy photographs and x-rays, although it is not clear from whom and to whom they were transferred. It is this "memorandum of transfer" which Mr. Weisberg is seeking, and which has been denied him by both the Department of Justice and the Archives, despite his many written requests.

It is our sincere hope that litigation will not be necessary to effect a reconsideration of Mr. Weisberg's requests. If within two weeks we do not receive a reply from you, we will assume that the Department is adamant in its present position and would prefer that we seek disclosure by filing suit in the District Court as provided in Sec. 3 (c) of the Freedom of Information Act.

Sincerely,

FENSTERWALD, BEVAN AND OHLHAUSEN

Bernard Fensterwald, Jr.

Enclosures

cc: Harold Weisberg, Route 8, Frederick, Maryland

BF: jb
cc: Reading file