102 Shamrock Rd #16
Charlottesville, Va.
22903
April 11, 1979

Tom Mackellar 4/11/79

Dear Harold,

Enclosed is a memo I hurriedly cooked up during Spring Break. I hope you have time took a close look at it and would appreciate your comments.

I am now preparing my appeal brief, which will not be what I had hoped because of upcoming exam pressures. I have 5 grounds of appeal

1. use of a vacated order as precedent
2. failure to allow discovery
3. failure of Agency to show there were no segregable portions
4. excessive weight given to the agency affidavit
5. failure of the court to provide the information required in Vaughan and Mead

I'll need to talk to Jim before I finish, especially on the problem of what relief to ask for.

(OVER)

MEMORANDUM TO: Interested Researchers

H.O.

MEMORANDUM FROM: Mark A. Allen

DATE: March 14, 1979

SUBJECT: CIA Item #563-810

On September 22, 1978 CIA Item #563-810 first became available to researchers when it was included in the daily press release of the House Select Committee on Assassinations. The document is an internal Agency memorandum dated February 20, 1964 which indicates that as of the date of this memo 37 documents which were officially recorded as being included in Oswald's 201 file could not actually be found in that file.

While any missing CIA documents on the Oswald case might potentially be important, they would particularly be so if they were pre-assassination material. The memo gives no direct indication of the dates of these missing documents, although in paragraph #1 there is perhaps the suggestion that it is post assassination material. Paragraph #1 states: "The actual machine work of this type was begun in 1963, but a few items of previous dates were also recorded."

Nevertheless, it is very intriguing that 8 days prior to this memo, on February 12, 1964 , Warren Commission General Counsel J. Lee Rankin wrote CIA Director John McCone requesting the entire CIA pre-assassination file on Oswald. It is also interesting that the 2/20/64 memo suggests that some sort of review of the Oswald file is anticipated. The memo states that a machine listing of documents in Oswald's 201 file was requested by the recipient of this memo (name deleted), but does not indicate that a comparison between the machine listing and the documents actually found in the file was similarly requested. The fact that a comparison was made suggests that some sort of review of the file was going to be made.

As recently as 1977 the CIA had refused to release this memo to Bernard Fensterwal when he sued the CIA for material on the JFK assassination. In refusing to turn over this document the CIA told U.S. District Judge John Sirica:

"This document is an informal note recording the state of the Oswald 201 file as of 20 February 1964. The note makes it clear that the volume of documents accumulating is considerable and that a number which had been logged to the file had not yet been filed in it as of that date. There is no discussion of the substance of the file, merely the administrative workings involved in getting documents into the file." (Document Disposition Index, page 139)

The CIA went on to claim exemption (b)(2) of the Freedom of Information Act which allows the withholding of material if it is "related solely to the internal

personnel rules and practices of an agency." Now that the document has been released we can see just how misleading the CIA's document description and exemption claim was.

The CIA's description of this document to Judge Sirica may be an accurate explanation of the underlying circumstances surrounding this memo, but it is not a fair representation of what it states. The document does not"make clear" that the volume of documents accumulating is considerable -- since when is 37 documents considerable to a giant bureaucracy like the CIA? The document does not"make clear" that a number of documents that had been logged to the file had not yet been filed in it as of the memo's date. The document gives no explanation about the discrepency between the recorded documents and those actually in the file. Finally the CIA's statement implies there is a discussion of the "administrative workings involved in getting documents into the file." Yet there is nothing in this document that would fairly qualify as such a discusssion.

Furthermore, the innocent explanation suggested by the CIA in the Fensterwald case (i.e. that the CIA had'nt had time to actually place the documents logged to the file into the file) apparently did not fully satisfy the H.S.C.A. Otherwise this document would not have been used in the questioning of Helms. (I am told Helms gave a non-substantive response).

If this document indicates the disappearance of pre-assassination Oswald material, it strongly suggests that the denial of this document to Bud was part of a continuing coverup. And even if the CIA's innocent explanation is essentially correct, this entire incident suggests that the CIA is withholding material from researchers simply because it might give us the "wrong idea."

Mark Allen
3/14/79

20 February 1964

MEMORANDUM FOR: Chief,

SUBJECT: Documents Available in OSWALD's 201 File

1. A machine listing of documents officially recorded as being in OSWALD's 201 file was requested and is attached. The actual machine work of this type was begun in 1963, but a few items of previous dates were also recorded.

2. A comparison of the documents physically available in the 201 file and those recorded as being in the 201 file has shown that 37 documents which should be in the 201 file are not available in it. This total is made up of:

2 dispatches
7 memoranda from the FBI
1 CSCI
2 State Department documents
25 cables.

3. Machine inquiries for the location of these documents have not been made.