

Route 8, Frederick, Md. 21701

10/12/72

Dear Mr. Rhoads,

This is in response to your letter dated October 3, which says it is in reply to my letter of August 30, 1972.

I had hoped that at some point we might get past your writing of deceptive, misleading, self-serving and incomplete letters clearly intended for the making of a false record and requiring of me long and detailed responses to prevent the making of a corrupted record. Apparently you and those who draft your letters intend to continue a policy of political control over public information then to be selectively released for propagandistic rather than scholarly purposes. This is the policy an abundant record shows to be the reality. It has been pursued with such intensity that the deliberate deceiving of the federal courts has been an intended and accomplished purpose.

As you realize, I must appeal this frivolity. You also know that prior to answering me such letters are routed through the office of USA general counsel, as accidents by your staff have disclosed to me. And you must know that in time these matters will come to the desks of Mr. Vawter and Mr. Johnson. Mr. Vawter has disclosed to me absolutely no knowledge of your regulations or the law, so he automatically becomes the captive of those in USA and Archives who write such deceptions, that which is before him when he makes decisions assigned to him but for which he is not adequately prepared, a situation that I believe in itself establishes intent to frustrate the workings of the law. Mr. Vawter has actually begged me to clutter the courts with unnecessary lawsuits rather than have these things come to him in the regular course of his assigned duties. So, if you persist in contempt for the law, your regulations and what by now is a rather impressive number of court decisions and rulings by other agencies, perhaps an appeal to you on behalf of poor Mr. Vawter may inspire you to more fidelity to fact and complete fact than your letter can possibly indicate to him or Mr. Johnson, who is supposed to review Mr. Vawter's decisions automatically, whether or not he does.

If you do not, you will leave me no alternative but to make this record myself. I am not looking for debating points. I do not seek a lengthy record of dishonesty by officialdom in the expectation that it might impress a judge. I seek public information under the law with a minimum of unnecessary impediments placed in my path, a minimum of trouble to the government, and no unnecessary resort to the courts.

Therefore, I ask that you rewrite your letter and make it an honest reflection of my requests for this so-called memorandum of transfer and your responses, written and verbal (you may remember discussing this with me in Judge Mallock's court, as Mr. Johnson also did after the Secret Service, the agency of paramount interest, released it to me). All of the requests and all the responses should be set forth. I realize this puts you in the position of regretting yourself as not responding, responding with a number of varying reasons as the expediences of the moment seemed to motivate, even inconsistent changes in the alleged reasons. But that is the record you made and I can't permit any dishonest single letter to wipe all of that out. Nor should Mr. Vawter and Mr. Johnson be denied this information, nor, should it become necessary, a federal judge.

I would ask you in that new letter to set forth the number of different copies of this memo of transfer in question, when it came into the possession of the Archives in each case and how and for what purposes, the uses already made and permitted to be made of it by the government (for a number of federal court decisions make this alone quite relevant) with the names of all those who have been granted access to it and who are not government employees but in actuality are literary competitors of mine, together with a copy of the covering letter with which the Secret Service copy was given to you for delivery to me. I think under the circumstances and with the precedent you have already established by giving me such covering letters, you should also provide me with a copy. Together with this, I believe the Office of General Counsel should provide legal authority for a released receipt for the transfer of government property to be classified as a personal medical record. And I do believe there should be attached if not copies, then appropriate and complete excerpts from

controlling decisions which say that once any use is made of records that might otherwise be exempt under the law the exceptions have been waived by the government and such records cannot be withheld from me.

Your letter refers to the "desire" of Mr. Burke Marshall. Congress has made that irrelevant, as has government use. But since you invoke this alleged personal desire, which in my view cannot properly control access to public information or government records, I think you should make full and complete reference to what Mr. Marshall has written. He was written no letters of which you have copies saying he leaves all such things up to you. Also, this memo of transfer is specifically excluded from the CIA-family contract, which was entered into more than a year after the first copy of the memo of transfer was placed in the Archives. Furthermore, it is not a whim by Mr. Marshall but a fact that the Secret Service copy of this memo was placed in the Archives under this contract, the deceptive import of your second paragraph. It was given to you to be given to me, pursuant to a conference I had with the proper executives of the Secret Service, and your Mr. Marion Johnson personally confirmed to me that you had intercepted it with the intent of frustrating my access to it. Now I think a full record requires inclusion of all these things and the authority for them, including your own regulations that make access to public information subject to your whim or that of any other, subject to the desires of those not agents of the government, and on any kind of selective basis. You have already permitted a number of people to write in the public press about this record, yet you presume to have legal sanction for preventing me to write about it what I want to write, not what you want to be written. The record should include its use in an official government report that was then introduced into evidence in a court proceeding.

You should further correct your second paragraph, which states falsely that you have not permitted "public inspection". At least five and I think more members of the general public have been permitted this "inspection". Here I think both Mr. Vantor and I are entitled to a citation of the authority that permits you to permit Mr. Marshall to control the Secret Service copy of this memo of transfer under any conditions and expressly after some have been granted access.

I think also that we are both entitled to the legal authority for your third paragraph, which vests in Mr. Marshall the ex post facto right to censor government records, to impose any restrictions upon them, and to in any way restrict, circumvent or frustrate the decision of the agency of paramount interest, the signatory agency, which informed me officially that it was making this memo of transfer available to me. I remind you that it is not a record of the Warren Commission and did not exist at the time the Commission's life ended. I repeat that it was specifically exempt from the contract.

Pretty much the same is true of the Secret Service record of the ruin of film. Dained film is not and cannot be a medical or a personal record, it was and never stopped being government property, my right to it has been established by use, by making it available to another who has published about it, quoting it, and the Attorney General's own interpretation of the law could not be more explicit in saying that what the government may find embarrassing may not for that reason be withheld.

Sincerely,

Harold Weisberg