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Rt. 12, Frederick, Md. 21701
3/27/78

Mr. Kenneth R. Strawberry
FOIA Staff, Bureau of Public Affairs
Department of State
Washington, D.C. 20520

FOIA Appeal #2, #S10184

Dear Mr. Strawberry,

Evasiveness may be a recognized practice in matters diplomatic but it is not in FOIA matters. Your letter of 3/24 is so evasive that it does not reflect my appeal and is not an explicit denial of the appeal. It is, rather, an argument. I hereby renew the appeal and ask that you act on it in accordance with the Act.

You and through you the Department also shift ground.

In your form dated 3/3 you marked # 8, "...does not refer to records or documents of the Department. ..."

Now you quote "a Department Legal Adviser that ' . . . is not a request for reasonably identifiable records," not because they are not in fact "reasonably identifiable" but, and I here quote without omission, "because it would be unreasonably burdensome." How? I again quote without omission, " to check all the Department records on Oswald against all the National Archives and Records Service and Warren Commission records to see if they come within his (meaning my) request." Your counsel adds and you conclude, "He is asking us to screen records, not search."

Of course I could simplify your problem by requesting every Department record on Oswald, along with a repetition of my request for a waiver of costs, and I am prepared to ask you to regard this as that request unless you end this stonewalling.

I am not without some familiarity with the Department's records system, unless it has spent recent decades making them inaccessible. Nor am I without knowledge of the record-keeping relating to records provided to the Warren Commission.

While the Department can identify each Oswald record with ease, there is no reasonable doubt that it immediately after the assassination prepared a list of all such records. When it ~~did~~ provided some of these records to the Commission it had another list. Where there is classification, with/ or without withholding, there is another list. It is commonplace and it is not unreasonable to compare lists. This is done, by the government regularly in response to my FOIA requests. Without such practices you can't function.

Where there is withholding there is still another list. I have a number of them from various sources ranging from the Archives to the CIA. These lists identify what is withheld and specify the exemptions claimed and, when done properly, the authority for the claims.

Your counsel is attempting to write (or rewrite) law, not read it and give its meaning. I have not asked research of you. I have asked for identifiable records. In response you are required to make a good-faith search, with due diligence. This being what the Attorney General has designated an historical case, you are supposed to take an even less restrictive approach to the clear meaning and intent of the Act.

It boils down to an end of denial of the existence of the records I've requested and the spurious claim that providing them is too much work. In fact it is much less work than is common in historical FOIA cases. It has all the appearance of another effort to withhold outside the exemptions of the Act.

If this appeal is denied please do it in proper form so the administrative record will be clear. Please also ^{file} substitute the above request for all Oswald records, letting me know the approximate date of availability to me. Sincerely, Harold Weisberg



DEPARTMENT OF STATE

Washington, D.C. 20520

March 24, 1978

Mr. Harold Weisberg
Route 12
Frederick, MD 21701

Dear Mr. Weisberg:

Re: Freedom of Information Case #810184

This will acknowledge your letter of March 8, 1978 concerning the above Freedom of Information Act case.

Your request did not involve the denial of documents therefore there can be no appeal.

To further the Department's view that your request did not constitute a reasonable request, PA/FOI has been informed by a Department Legal Adviser that ". . . is not a request for reasonably identifiable records because it would be unreasonably burdensome to check all the Department records on Oswald against all the National Archives and Records Service and Warren Commission records to see if they come within his request. He is asking us to screen records, not search."

Sincerely,

Kenneth R. Strawberry
Freedom of Information Staff
Bureau of Public Affairs