

UNITED STATES GOVERNMENT

DEPARTMENT

Memorandum

TO : J. Edgar Hoover
Director
Federal Bureau of Investigation

DATE: OCT

FROM : William H. Rehnquist
Assistant Attorney General
Office of Legal Counsel

SUBJECT: Request under the Public Information Act for Records
Contained in the Files of the Federal Bureau of
Investigation.

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

*Put to OAG
Office of Legal Counsel
WHS:mrb 1-70 (enc. 2)
10/7/69*

*Memo
Sullivan
TNG:md
10/6/69*

*EXT. PROC.
OCT 3 1969
100*

The enclosed file relates to a request by Mr. Paul L. Hoch under the Public Information Act, 5 U.S.C. § 552, for access to records contained in the files of the Federal Bureau of Investigation. Being sought are copies of certain pages (1, 38, 39, 40) of the original and record copies of a pamphlet entitled, "The Crime Against Cuba." The original pamphlet was obtained by Special Agent John Lester Quigley from Lee Harvey Oswald in New Orleans on August 10, 1963.

A chronology of the correspondence between Mr. Hoch and the Department is helpful to an understanding of the problem.

On July 10, 1969, R. Richards Rolapp, Special Assistant to the Deputy Attorney General, advised Mr. Hoch by letter that the original and record copies were identical and were contained in the Department's files. He pointed out that copies of the pamphlet were contained in the Warren Commission files and indicated that Mr. Hoch should therefore direct his future requests to the National Archives.

On July 25, 1969, Mr. Hoch responded to Mr. Rolapp's letter. He stated that Mr. Rolapp's letter was in effect a denial of his request, and that under 28 C.F.R. § 16.7(b) he was entitled to "a simple statement of reasons for the denial."

REC-66/05-82555-3618

Mr. Rolapp answered this communication on August 19, 1969. He enclosed a xerox copy of the pamphlet, stating that, with the exception of several notations on the cover, it was "identical in all respects" to the pamphlet obtained by Special Agent Quigley from Oswald.

*1 Xerox cc of let and
let from Aoch to AG
sent to by letter
10/7/69 TNG:mrb*

COPY MADE FOR MR. TOLSON

10/3/69

Mr. Hoch now appeals Mr. Rolapp's action, which he terms "in effect a denial," to the Attorney General pursuant to 28 C.F.R. § 16.7(c). The appeal has been referred to this Office for comment. I have tentatively concluded that the Deputy's denial of the request is supportable under the Public Information Act. It seems plausible to argue that the pamphlets in question are contained in "investigatory files compiled for law enforcement purposes." See 5 U.S.C. § 552(b)(7). However, the fact that they may lawfully be withheld does not compel the Department to follow that course. The exemptions in the Act do no more than exempt the agencies from the otherwise applicable compulsory disclosure requirements; they do not require that records falling within an exemption be withheld.

A denial of a request under the Public Information Act carries with it the possibility of a law suit against the agency. In addition, an adverse judicial interpretation may result once the case goes to court. For these reasons, we believe that requests for arguably exempt official records should be granted unless there is compelling reason for non-disclosure.

If you find that there are no compelling considerations dictating denial of the request, my recommendation to the Attorney General will be to grant the request. This will involve the xeroxing of four pages in both the original and record copies of the pamphlet. If, however, you believe that disclosure would be injurious to the public interest, I will advise the Attorney General of that fact, and we will proceed accordingly.

Please return the enclosed file to this Office. We will need it in preparing any necessary correspondence.