

Route 12 - Old Receiver Road
Frederick, Md. 21701

August 19, 1977

Dr. James B. Rhoads
Archivist of the United States
National Records & Archives Service
Washington, D. C. 20408

Dear Dr. Rhoads:

While I welcome your belated recognition of the Attorney General's directive of May 5 and the copies of previously-withheld records with your letter of August 16, I am distressed to learn, 12 years after the fact, that you also knew of missing Warren Commission records, did nothing to replace them and took no steps to recover those that were classified.

I remember clearly enough repeatedly asking you to obtain replacement copies. I recall your telling me to do it.

And of course I recall your going to court and swearing the nation's security was involved in your denial of records to me when you had known for a decade that copies of "national security" records were missing and in the hands of others.

Before addressing the content of these records, I ask you to reconsider your refusals in this letter. My understanding of the Attorney General's May 5 directive and of his public statements is that he includes all the exemptions, that they are not to be claimed in FOIA matters without real need, and that the time of the needless claim of exemption in the hope of avoiding embarrassment is past.

Having read the enclosures, I see no reason for ever withholding them except to avoid embarrassment. I also think they were relevant in my C.A. 75-1448. I also see no proper reason for your failure to provide those that relate to me and my requests under my Privacy Act request for all records on me.

By now I have examined countless records you once withheld from me. In no case was there ever any legitimate need and I can recall no instance of any real national security consideration. To the government and to me the costs and the time wasted in needless withholdings are great. With these withholdings over so many years, basic American traditions and beliefs have been violated, not just the Act. The only apparent reason is misuse of FOIA for political purposes.

And of course, all this related to and still relates to both the assassination of a President and its official investigation, the former the most subversive of crimes and the latter the greatest test of the integrity of successor administrations. On this subject, it has seemed and still seems to me, government should extend itself to see to it that all information that can be made available without hurt is available to all people.

So while perhaps you can interpret exemptions like b(5) to enable you to continue to withhold only to dribble out again, why not clean up all of this and release all that you can without reasonable prospect of doing some real harm? This is the spirit of what the Attorney General has stated and it always was the intent of the Congress in the Acts.

I do appeal and I do appeal your interpretation that a draft is not a record.

Among the issues raised by Mr. Johnson's foresighted memorandum of June 10, 1966, is one of which I have complained, discrimination. Records were available to others that were not available to me and were denied to me. Later you personally participated in these practices, as when you denied certain records to me and then forced them upon me. I am certain that he would go for a headline and that he did not have the subject knowledge I had.

While I then did not make the issue Mr. Johnson saw, I was aware of the damage to me and my work and interests in having what was not available to me available to a competitor, one who just happened to write in a manner more congenial to some official interests, Edward J. Epstein. (It is my understanding that this relationship has ripened to the point where valuable contracts and materials are being hand fed to him, as I explain below.)

I did not complain then because as Mr. Johnson perceived I knew Epstein's source was not the Archives.

Putting in plainer language what Mr. Johnson next reported, you had reason to believe that virtually all of the Warren Commission members and staff kept their copies of the records they handled or could obtain. Mr. Johnson's words are "the only sizeable group of office or desk files of the Commission that we have are those of Wesley J. Liebeler. The other office or desk records we have are chiefly small groups of papers that we have attributed to staff members in the course of our arrangement work on the records."

Actually, Mr. Liebeler appears not to have been an exception. He appears to have countless records. He has told others of having them on microfilm. Mr. Epstein is not the only one to have had access to Mr. Liebeler's stash of what you continue to withhold from me.

Mr. Johnson was also correct in saying "it seems that the National Archives should have at least the original documents." How often have I asked for the originals and not been able to obtain them? What percentage of what you have supplied me is xeroxes of remote-general carbon copies, some illegible?

Mr. Johnson was without doubt that members and staff had taken records with them. His concern as expressed here was for the originals in particular.

My concern is that you have gone to court and sworn that urgent national security requires that you keep records from me, knowing all along that these records were in the possession of others outside the government and that neither you nor anyone else ever took a single step to recover them. I believe the claim to national-security need is a spurious claim in the face of all these years of failure to take any step to retrieve any of these missing copies of classified records.

You did not have the office or desk files of Warren Commission General Counsel J. Lee Rankin or the staff counsel who handled the most important of the corpus delicti evidence, Arlen Specter. Once again Mr. Johnson was perceptive in reporting those records may be of special importance."

Four days later Dr. Bahmer discussed these matters with the late Chief Justice Warren. Dr. Bahmer quotes Chairman Warren as saying that "the staff was not to take any papers with them." There is no reference to members and their taking of any classified records or any other records withheld from me or not in your files.

One of your memos is now provided. You spoke to Mr. Rankin, without asking him to return any of the records he took with him.

There is no record you have provided that reflects any effort to recover any of the records the Chief Justice stated were not to have been taken.

Is it not a crime to steal "TOP SECRET" records?

When you could not find any of Mr. Specter's records and he handled the autopsy and related areas of evidence and I persisted in seeking records that did exist, you could not have asked him to return them? Or could not have asked the Department of Justice to obtain them? And all the other missing records? You merely told me you could not find them.

Have you the remotest idea of how much this failure on your part and that of the government has cost me over the years? The time I've spent pursuing those records you permitted to remain stolen when they are the property of the people and I have a right to access to them?

Yet repeatedly you gave sworn assurances to courts of need to withhold, knowing all along that what you were denying to me was not being withheld under the law but was being withheld from me while it was and had been in the possession of others.

Copies of the transcripts I sought in C.A. 75-1448 are missing. They were classified "TOP SECRET." You denied them to me knowing others have them.

Among the other national treasures for which you cannot account are the original notes of the autopsy of the assassinated President. I have a chain of possession on them to Admiral Burkley. For years you denied me Admiral Burkley's records under spurious claims. I have not seen all that was transferred to the Archives through him so I am now asking you if these records and materials include these notes or any other records I have sought and have not obtained for so many years and after so much effort.

The three short memos from Richard Vavter to you of early 1972 are illustrative of the utter meaninglessness to which you have reduced the appeals process. In two of them he, the supposed appeals officer, asks you to act on the appeal I have made from your refusal. He is supposed to be the appeals officer, not you. In one he even asks you to draft what will be signed by the Assistant Administrator for Administration, the last word before court. This makes a mockery of the entire appeals process.

I recall very well the phone call he made and refers to under date of February 16, 1972. He did not want to deal with issues. He did not want to discuss the existence and records and whether or not they could properly be withheld. All he wanted me to do was stop trying to get records so he would have no problems. He practically begged me to go to court so he would have no appeals to come to his desk, even if you acted for him.

I do not think the Congress enacted FOIA for bureaucrats to force unnecessary litigation upon the courts. You and I can look back on enough such cases.

Mr. Johnson's two memos on the Intraservice Memorandum and Endorsement form, both of October 1969, get us back to Arlen Specter and the others who merely took the records copies of which I sought and some of which I still do not have. You were using the lawyers to cook up more excuses for not giving me public information, knowing all the time that others had precisely the same information and that neither you nor anyone else in the government exercised any responsibility or made any effort to recover any of it. It is beyond my present capacity to search my old records for the letters referred to. You did not attach copies. But I'd be surprised if they did not deal with what in some cases is now available and once examined shows neither basis nor need for withholding that is not outside the Act, a desire to prevent official embarrassment.

My recollection of your testimony before the Abrug subcommittee may not be precise but I do believe that you assured the Congress, under oath, that you do seek to obtain copies of missing records. The record you have just provided me is not at all consistent with such testimony. Nor is my experience.

This is quite a record for you, especially if you are still chairman of the interagency review committee for the entire government.

It is a record of how the bureaucracy frustrates acts of Congress and denies public information.

I would like to know how you could bring yourself to take all those actions, make all those decisions, sign all those affidavits including attesting to national-defense need in withholding records from me while knowing there were countless copies already in private possession and that ~~all~~ you were doing was denying me what others of opposite view already had. Especially with records classified "TOP SECRET" missing as of last year, in my C.A. 75-1448.

In connection with that case, the CIA has since then made many records available. These include records on a number of defectors. This leads me to ask if you continue to withhold from me in the transcripts what the CIA has made available in other form.

There is another possibility of which I think you should be aware. I refer to it briefly above. It is also relevant in C.A. 75-1448 and to your affirmations in it.

4.

It is my information that the same Edward J. Epstein has been given access to information denied me and has been considerably enriched in the process. I understand that he has been given an advance of a half-million dollars by Readers Digest to do a book in which he will say that Oswald and the KGB killed President Kennedy. It is my understanding that the project director is John Barron, the same man who was fed the contents of a pro-CIA book titled KGB, also published by Readers Digest. I have read Barron's book. It is obvious that his sources had to have been the same federal agencies who deny information to those who do not believe and do not write as Barron does.

The public press has carried numerous accounts of Epstein's paying \$5,000 for interviews. Normally, writers never do this and indeed few can afford to.

I also understand that Epstein has interviewed Igor Nosenko. You are aware, of course, that without the CIA arranging this it is impossible. You should also be aware that this once again gives the sycophant Epstein, whose writing is what the federal agencies like, access to what you have denied me by an affidavit in which you have sworn that the national security requires this of you.

Yours truly,

Harold Weisberg



General
Services
Administration

National Archives
and
Records Service Washington, DC 20408

August 16, 1977

Mr. Harold Weisberg
Route 12 - Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

This is in response to your letter of July 26, 1977, addressed to Leon Ulman, with a carbon copy to Marion Johnson, in which you appeal a denial to you under the Freedom of Information Act, as amended, of an administrative record of the National Archives dated June 10, 1966. Your letter was received in this office on July 28, 1977.

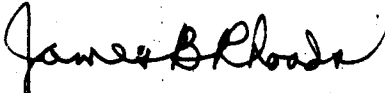
We have reexamined this document in light of the Attorney General's letter of May 5, 1977. While we continue to believe that this document reflects internal deliberations and thus can be withheld under the provisions of the Freedom of Information Act, we do not believe that release of the document at this time would be "demonstrably harmful." Consequently, we are releasing the document, and a copy is enclosed.

In addition, we have taken this opportunity to review all administrative records that have been denied to you in the past, and we have determined that a number of these can be released to you at this time. Copies of these are also enclosed. We continue to deny to you a number of other documents, all of which are either communications with legal counsel, internal communications relating to counsel's advice, or drafts of letters ultimately provided to you in final form. These are withheld under exemption b(5), "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." With reference to the drafts of letters, we further believe that these may not be "records" for the purposes of the Freedom of Information Act, and as such, are deniable on that ground as well.

2

You have the right to file an administrative appeal concerning the material denied to you. Such an appeal should be in writing, prominently marked "Freedom of Information Appeal," and addressed to the Director of Information, General Services Administration, Washington, DC 20408.

Sincerely,

A handwritten signature in cursive script that reads "James B. Rhoads".

JAMES B. RHOADS
Archivist of the United States

Enclosures

Memorandum

TO : Deputy Archivist

Date: June 10, 1966

FROM : *mmj*
Marion M. Johnson

In reply refer to:

SUBJECT: Office Files of the Warren Commission

During my conversation with Legal Counsel Simms' at the Department of Justice on June 3, he remarked that he had received a report from the FBI that a former assistant counsel of the Warren Commission has apparently made records of the Commission available to Edward Jay Epstein in connection with the preparation of Mr. Epstein's book, Inquest, concerning the Warren Commission. Mr. Simms said he had turned the report over to Internal Security (which I thought is probably a division of the FBI) for investigation.

A New York Times story of June 5, 1966 (p. 42), states that Mr. Epstein cites the working papers of Wesley J. Liebeler, a former assistant counsel of the Commission, as a source. Mr. Harold Weisberg told me that he suspected that former members of the Commission had made records available to Mr. Epstein. The Times story mentions interviews with former Commission members, but not records in connection with them.

The Times story also says that the Epstein book (to be published in 15,000 copies by Viking Press on June 29) reprints 36 pages of the FBI "Summary Report" of December 9, 1963 (CD1). Mr. Epstein did not order copies of any documents while he was here, and I was not aware that he used a camera or other copying device to make copies if he did do so. I can say definitely, however, that there are at least two pages in Mr. Epstein's book that appear to have been copied from an FBI document that we have withheld from researchers (including Mr. Epstein) because it has a relation to the Jack Ruby case. This is the FBI "Supplemental Report" of January 13, 1964 (CD107), quotations from which also appear in the Times story about the Epstein book. When Mr. Fred Graham of the New York Times showed us his copy of the Epstein book on Wednesday, June 11, I could give it only a brief examination because the day was nearly over. I noticed two pages, however, that I have today identified as pages 59 and 60 of the FBI "Supplemental Report," which consists of pictures of President Kennedy's coat, shirt, and tie. It is certain, therefore, that Mr. Epstein obtained access to the FBI "Supplemental Report" outside the National Archives and possible that he had access to the FBI "Summary Report" outside the National Archives as well.

It seems that Mr. Epstein's use of Commission records outside the National Archives indicates a problem that may give trouble in the future. When the Epstein book is published, we may receive complaints from Mr. Weisberg and Vincent Salandria, who have copies of the list of documents indicating that

*Checked by
Epstein*

CD107 is withheld, as well as from other researchers from whom the document has been withheld. Mr. Weisberg, incidentally, seems either already to have a copy or to have seen a copy of the Epstein book. Moreover, the only sizeable group of office or desk files of the Commission that we have are those of Wesley J. Liebeler. The other office or desk records we have are chiefly small groups of papers that we have attributed to staff members in the course of our arrangement work on the records, because the papers had the names of staff members attached to them or the handwriting could be identified as that of a particular staff member. If former members of the Commission or its staff retained office records that contain original documents, it seems that the National Archives should have at least the original documents, as we may be called upon to produce them in the future. In view of recent developments, it appears that the office files of General Counsel J. Lee Rankin and Assistant Counsel Arlen Specter may be of special importance if those former staff members still have their office files. An additional consideration is that it was among the office files of Wesley J. Liebeler that we found the Office of Naval Intelligence file on Lee Oswald last year after searching for it a whole day in other records. The office files of staff members may therefore contain such missing items as the Betzner pictures, which Mr. Weisberg and others have requested.

6/14/66

I called the above situation
to Chief Justice Warren's
attention during our lunch
today. He said it was his staff
understanding that the staff
was not to take any paper
with them; suggested that
we might talk with Lee Rankin

WJB

GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICES

PAGE
1 OF 1 PAGES

INTRASERVICE MEMORANDUM AND ENDORSEMENT

SUBJECT OR TRANSACTION

FROM TO DATE AND MESSAGE

ND Files 4-21-66. I spoke to J. Lee Rankin by phone today, asking if there was any way we could be of help at this time in resolving problems of access to the records created by the Warren Commission. He recounted the problems he has had in getting all of the former Commissioners together. He also said that this was a busy time for him and that he knew it would be for the Chief Justice until mid-June. I assured him that we understood the difficulties involved, but that requests for access to the records were not diminishing and that sooner or later some decisions regarding access would have to be made or else that we would have to recognize that such decisions could not be reached and reconcile ourselves to closing the records indefinitely. I said we would hate to have to fall back on the latter alternative. Mr. Rankin then said that maybe he could work up a questionnaire to be sent to the former Commissioners and thus obviate the need for a meeting. I said we would be glad to be of help on this if we could.

At my request he said he'd see what he could do about asking the Chief Justice to call Dr. Bahmer, but that it might be ten days before Mr. Rankin would be able to get in touch with the Chief Justice.

[Handwritten signature] James B. Rhoads

(Over)

File

Deputy Archivist

June 10, 1966

Marion M. Johnson

Office Files of the Warren Commission

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UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20405



Handwritten initials: JH

February 22, 1972

MEMORANDUM TO THE ARCHIVIST OF THE UNITED STATES

FROM : Rich Vawter *RV*
Information Director

SUBJECT: Attached correspondence from Mr. Harold Weisberg

Please prepare an answer to this in accordance with Title 41 C.F.R., Chapter 105-60.404. You will note this requires coordination with the appropriate official in the General Counsel's office. We will determine later whether this is to be considered as an appeal and who will sign it.

Attachment

DATE RECEIVED	FEB 24 1972
MAIL STOP	
TRANSFER FILE	ANNEX-1
ASSIGNED TO	<i>John</i>

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GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICES

PAGE _____
OF _____ PAGES

INTRASERVICE MEMORANDUM AND ENDORSEMENT

SUBJECT OR TRANSACTION

Correspondence with Harold Weisberg and Dr. Nichols.

FROM	TO	DATE AND MESSAGE
MMJ	NND	10/24/69. I have discussed the unanswered letters from Mr. Weisberg dated before October 17 with Mr. Byron Harding and have prepared replies on the basis of my conversations with him, using drafts previously prepared and approved. He is going to have Mr. York of L review letters to Mr. Weisberg and Dr. Nichols in the future. I told Mr. Harding that we would send L drafts of letters to Mr. Weisberg and Dr. Nichols that involve legal questions. There are three letters to go to Mr. Weisberg. I think all three should be dated the same day and sent to Mr. Weisberg in one envelope in order that he will get them simultaneously. <i>Marion M. Johnson</i> MARION M. JOHNSON
MMJ	NND	10/30/69. I think that the two letters in reply to Mr. Weisberg's letters dated before October 17 should be sent out now; as the reply to his letters of October 17 and 18 must be rewritten. <i>Marion M. Johnson</i> MARION M. JOHNSON <i>Noted MAR 10/30</i>

(Over)

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



RP

JAN 11 1972

MEMORANDUM TO THE ARCHIVIST OF THE UNITED STATES

FROM : Rich Vawter *Rich Vawter*
Information Director

SUBJECT : Correspondence with Mr. Harold Weisberg

Is there any way that we can close out this long chain of correspondence with Mr. Weisberg by summarizing what we have provided him and what we have denied him and telling him that his next step is to take his case to the courts? Perhaps we should tell him how we have tried to help him over the past five years in an endless chain of correspondence and research but that with all due regard, we do have other customers to serve.

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UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20405



February 16, 1972

MEMORANDUM TO THE ARCHIVIST

FROM: Rich Vawter
Director of Information

To say that our last letter to Mr. Weisberg failed to stem his verbiage is the understatement of this year. I am forwarding his latest to you for whatever use you want to make of it.

I phoned him and told him that I had no intention of continuing this correspondence until I received a numerically indexed request of his current need for documents or information. I told him that when he provides this, we will give him either answers, documents or legally based denials and then he can go to court if he wants to.

Attachment

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20548



April 3, 1972

MEMORANDUM TO ARCHIVIST OF THE U.S.

FROM: Rich Vawter
Director of Information

SUBJECT: Appeal of denial of information

Please prepare an appropriate answer to this appeal. It probably will be signed by Assistant Administrator for Administration as the final appeal officer. Thank you.

Attachment