November 7, 1974

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

Dear Dr. Rhoads:

Because your letter stamp-dated October 30, 1974, and received here November 5 does not list the enclosures, I note that there were enclosed only eight (8), one with several variations, and that you did not send me either all the letters and memoranda establishing policy or all the controlling laws and regulations I had requested.

Consistent with your past record, you have written a self-serving letter that is not in accord with fact. This requires that I record at least some of your unfactual representations.

"Because of your constant references to past and potential litigation, we routinely have our replies reviewed by the GSA Office of General Counsel, which review consequently results in the delayed responses."

First of all, this is false. You started "routinely" referring all my correspondence to the GSA Office of General Counsel long before I filed or mentioned filing any suit under the "Freedom of Information" law. Your people, not intending this accommodation, sent me wrong copies so I am aware of the person and the office and, if not the first time, at least a time long before any litigation. You had other, political purposes.

But were this not true, as you know it is, this neither accounts for the delays, some of which were of more than three months, nor is it in accord with your regulations.

Paragraph 46 of NAR P 1848.1A, headed "Time limits," includes the directive that you have not followed a single time in some eight years: "If a request cannot be answered within these time limits ["5 workdays ..."] an acknowledgment must [my emphasis] be sent to the requester indicating when the reply will be made."

You quote my letter of September 17 incompletely. What followed your quotation is, "And in order that there cannot be another of these convenient oversights that are also so common, I want your personal assurance that what you provide is complete."

You provided neither this assurance nor a complete response. You in fact did not even refer to what you omitted of which I have knowledge.

When I am 61 years old and have sued GSA and the Archives but twice, the alleged "constant references to past and potential litigation" is hardly an explanation for your undeviating violation of your own regulations. It is less of an explanation when you started this long before there was any prospect of any litigation. It becomes no explanation, not even a spurious one, when your appeals officer phones me and begs me to sue, as Richard Q. Vawter did, and follows this with a fraudulent and deceptive written communication now a matter of court record.

In order to deny me public information that is mine as a matter of right you, individually and collectively, have systematically violated law and regulation and given me no alternative to litigation. The last thing a man in my situation wants is to sue. But when I cannot even get an honest response from you and cannot even get all the regulations and precedents that control the availability of what is within your responsibilities, is there any choice? Must I now file suit to get compliance with my simple request of September 17?

Here it is appropriate to note that in each case litigation resulted in your giving me access to what you had denied me.

It is also appropriate to note that in both cases there was false swearing that I consider perjurious, once by you personally.

It is not a threat, it is fact that you have by these and other wrongful acts done me harm. It is not a threat, it is fact that you have not to this day responded to what I consider perfectly proper questions about these wrongful acts. You have not even claimed the questions are improper. You have merely ignored them.

The final paragraph of my letter of September 17 refers to what is apparently extraordinary declassification of material to which I was earlier denied access. Earlier I had referred to your standard practice of inserting slip sheets in explanation of withholding. You have provided copies of these slip sheets. But in your letter of September 16, to which I responded the next day, you told me to "write directly" to the CIA. This, too, is consistent with your refusal to replace files that have disappeared when in your custody, your effort to make individual citizens responsible for replacing what you manage not to make available when it is your obligation to keep these files and make them available. This is the worst kind of Watergating and stonewalling, a subterfuge for violating the law.

The written record between us is sufficient for a determination of whether it is necessary to sue to obtain public information. The court record is sufficient to establish whether suit was necessary. But these are not the only records I have, as you will learn if you persist in giving me no alternative to seeking relief in the courts. I prefer any other means, beginning with your compliance with the law and your own regulations.

At some point this endless whipsawing has to stop. In your letter of September 16 you direct me to go to "the agency of origin." But when in the past "the agency of origin" has given me public information through you, you have intercepted this public information and overruled the decision of the agency of "paramount interest," the language of the Attorney General's Memorandum on this law (p.24). That agency released its record at my request. You intercepted and withheld it. You still withhold it.

You force me to go to court to obtain what you withhold improperly and then complain that I go to court and use this as a pretext for politicizing your function and interfering with my rights and my work.

If you permit me no alternative, Ill be forced to seek relief of the courts again. I would hope that at some point some judge will become

resentful of having his docket needlessly cluttered by suits that in three cases out of four resulted in giving me what had been improperly denied me.

Yours truly,

Harold Weisberg