

Mr. Wallace H. Robinson
Acting Deputy Administrator
GSA
Washington, D.C. 20405

Rt. 12, Frederick, Md. 21701
1/7/76

Dear Mr. Robinson,

Your letter of January 3 begins with an inadequate citation of statutory authority for denying my appeal and concludes by inviting me to file suit against you. At the same time you make it impossible for me to file suit by promising some of what I asked for under FOIA and in doing this you are conspicuous in flaunting the requirements of the Act, specifying that you did not meet its provisions and offering no explanation for your failure to.

In each case I will be specific in explaining the foregoing. I recall no previous correspondence with you so I will take the time for explanations. I am not a lawyer. I have made extensive use of the Act, have read the legislative history of the Act and the amendments to it and I believe that if there is anyone who knows more about the JFK assassination and its official investigation, in or out of government, I know no such person. If you have any questions about what I represent as fact I offer to take the time to answer them. I realize that you have no personal knowledge and must depend on others for your information. Especially because of this I also encourage you to make a personal examination of the track record between us, in and out of court.

There is some confusion in your letter I will address. Consultation with my files is not always easy for me. For this reason and because you say you are supplying me with some of the records I will restrict myself now to one subject. However, I do note that while you open by saying that you deny my appeal from ~~MEMO~~ "the decision made on November 22, 1976" (my emphasis) your letter clearly refers to more than one denial and on more than one subject.

You claim it required nine days for my letter to reach you. The Act does not, to the best of my knowledge, start its clock running at the time any appeal reaches any one person. It is my understanding that this begins when it reaches the agency. My appeal was properly addressed. Were your representations accurate you have still exceeded the 20 working days of the Act.

From your own description your review was inadequate. Your account is "We have reviewed the material which was originally denied to you by Dr. Rhoads and find that we are in agreement with his decision." This is not a review. You are not in a position to make any review based on an examination of or consideration of "the material which was originally denied." I am confident that if you reviewed even the correspondence, and you say you did not, you are aware that relevant records had been withheld from me, that I now have them, and that they stipulate exactly the opposite of this denial. Moreover, these withheld records are within a request now almost a decade old, were promised to me if they were even released, and then were released to another from whom I obtained copies. When they were given to this much later requester they were not sent to me. This requester, who has had access to my files for years, sent me copies, precisely because he knew that the Archives had promised me these records and had not provided them. I think the reason is obvious.

Your letter makes no reference to the fact that this request was once litigated. If you had not been made aware of it I do tell you it is C.A. 2569-70. I was ~~xxx~~ in that case. It was dismissed by the judge for two reasons: the Archives promised to take the pictures I asked for and let me study them; the Archives deceived the judge in a number of ways, including by false representations by its counsel and by false swearing by Dr. Rhoads. Obviously I could go back to court on this alone. Equally obviously I have not. I do not want scandals. I want compliance with the Act and to be able to continue my studies without official interference or obstruction. I now have an additional purpose. I have begun the deposit of my work in an archive in a university system. It will be an unofficial archive. I want it to be as complete as possible for future uses.

If my charges of false representation and false swearing are not true they are actionable. They are true and no actions will be filed against me over them.

What you report is a rubber stamp. That is not a review. The Act requires a review you admit not having made. While the time for it has long since expired, I therefore ask a meaningful review of you, not merely consideration of "the material which was originally denied to" me.

If I do not know what I will be able to do I can and I do tell you what I intend. There are punitive provisions of the amended Act. I believe there ~~are~~ other legal remedies available to me. I regard this denial as extra-legal and for purposes that are specifically prohibited in the Act before and after amending. I believe I can prove this. I do not want to make debating points or to take this to court without need so I will give you some of these proofs, those that should have been asked for by you in a proper review and those that should have been provided to you without your asking so you would be in a position to make a proper review, not be reduced to being a rubber stamp.

It is my belief that I am giving you enough information for you to be included in any action I may take over this denial. I want you to understand that I regard the original denial as damaging to me and my rights and your denial in the same way. You in addition are damaging the future value and importance of the archive to which I have referred.

In your paragraph 1 you claim the (b)(3) exemption, alleging "matters 'specifically exempted from disclosure by statute.'" You cite 44 U.S.C. 2107 and 2108 and refer to "restrictions on their use imposed by the donors and agreeable to the administrator." It is not really this way in this case and it most definitely is not that the representative of "the Kennedy family" imposed these restrictions you claim. The opposite is true.

The letter agreement was signed by the representative of the executors of the estate of the late resident. He did not represent "the Kennedy family." In addition, this letter agreement does provide for pictures being made and given as a substitute for personal examination of the clothing.

The claim to avoidance of "undignified or sensational use or depiction" is not only frivolous and irrelevant. It is fraudulent. I have asked for pictures of only those garments and those portions of garments pictures of which were widely publicized by the government. I have not asked for any picture of any garment not so publicized by the government. But in some cases the FBI faked these pictures. I do not want faked pictures. In one case I asked for a picture of only about a half-inch of a garment. Shrieks will be whistling from the backs of cows jumping over green-cheese moons when this kind of picture can be used in an undignified manner. The only possible sensational use is in exposing governmental dishonesty, and that is outside any exemption of the law. It is, however, the reason for the denial.

I will give you other specifics on this point alone. You have available the pictures taken by the FBI and stored in the Archives. These are pictures of the perfection in photographic incompetence - and the FBI is not incompetent. Examine those of the necktie, the shirt and the jacket and see if you can detect even the pattern of the material. You cannot.

Moreover, were this not true, my request is limited to pictures that can be used not for sensation but because of their evidentiary value. If you or anyone else can show that this is not the fact I will modify the request to assure it. The problem this presents to the government is that the evidentiary value is what it wants to suppress. There is no other reason for denying me clear pictures of what was printed countless millions of times in the form of unclear pictures the unclearity of which was contrived by the FBI.

I can simplify this even more for you: the Warren Commission introduced these items into its evidence, introduced pictures of them into its evidence, and then printed only meaningless pictures when it published its volumes.

It is absolutely false to represent as you do of the time of my request that "As specified in regulations relating to Warren Commission reference service; researchers

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are not sold copies of the photographs."

Nowhere in your letter do you make any reference to this part of my request, for dated copies of all applicable regulations. If you do not provide them, and you claim no exemption for them - you merely ignore this - I will still be able to prove that in order to be able to suppress what I seek the regulations were rewritten after both my request and its denial.

Your invocation of (b)(6) is ludicrous. Were the pictures I seek "personnel and medical files and similar files," as they clearly are not and more clearly are not from recent decisions, even these are not exempt unless they "would constitute a clearly unwarranted invasion of personal privacy."

How in the world is an invasion of privacy possible with duplicates of pictures already printed so many millions of times and printed initially by the government and sold by its Printing Office?

But were an invasion of privacy possible, the Act stipulates the added condition, "clearly unwarranted." On the assassination of a President evidence of that crime is a "clearly unwarranted" invasion of any "privacy?" Were this true, and there is not even the claim to it by the government, then what about the Congressional investigations authorized for more than a year, including that authorized by the House last September?

It is obvious, I believe, that there is no rational basis for claiming this exemption.

Your pretenses in which you personally may be innocent compel me to make this record.

You say "an individual's research should be protected from unwarranted incursions by third parties. (I agree and there is nothing in my request that is in any way any such incursion.) Only in this way can we protect the integrity of an individual's research." You also say "You have previously been provided copies of the agreement with the Kennedy family (sic)..." What you do not say and I want this record to show is how the same Dr. Rhoads made an "unwarranted incursion" into my research on precisely this letter agreement, denying it to me under conditions that required it be kept in perpetual secrecy and then literally solicited another to ask for it, telling this person who had not asked for it that if the request were made under FOIA Dr. Rhoads would have to provide it! Were this not a sufficient and sufficiently unwarranted incursion into my research the same Dr. Rhoads did not then mail me a copy of that letter agreement until days after its publication in the form of anti-Kennedy propaganda, his transparent purpose, by this other person who is not and then was not a "researcher." He was a newsman looking for a cheap sensation. You know, nothing sensational, nothing undignified. If it is false and anti-Kennedy propaganda it is neither undignified nor sensational. If it is a photograph of official evidence it is both undignified and sensational.

I am familiar with that agreement. It covers the clothing as "Appendix A material." Under (2) it specifies that "Access...shall be permitted...to..(b)Any serious scholar or investigator of matters relating to the death of the late President..." This certainly includes me. I published the first book on the Warren Commission and its investigation, more books on it than any other and am the one person certified by the Department of Justice as knowing more about it and the FBI's investigation of it than anyone in the employ of the FBI. Prior to your letter the federal court of appeals in the District of Columbia held with respect to other withheld evidence that bringing it to light, if it exists, serves the nation's interest. However, I did not request personal examination of this evidence. This same agreement provides for photographs as a substitute and I asked for these few evidentiary photographs. Under then applicable Archives regulations the providing of such photographs was mandatory. After denying my perfectly proper request these regulations were changed so you could continue to suppress that which is embarrassing to the FBI and to others. As of the time of my request providing me these photographs was required. This ~~same~~ accounts for your making no reference to not complying with that request now and to all the mumbo-jumbo about (b)(5).

I have referred to the providing to another of internal memoranda that were not provided to me and were not only not provided to a federal court but were misrepresented to it. These withheld and grossly and deliberately misrepresented memoranda and other similar record specify exactly what I represent, specify the providing of such pictures. They date prior to the signing of this letter agreement and specify its purposes and intent. Naturally they could not be provided to me when I would have presented them to the court the government deceived. Nor could they have been given to me while these non-secret pictures were also withheld from me.

If this information was denied you and GSA I would hope you would both want to look into it and perhaps do a little shaking up. Unless, of course, you are also part of this Orwellian operation of describing suppression as providing public information.

I would hope also that you can understand that your verbal gymnastics about inter-agency and intra-agency memoranda combined with your invitation that I sue you persuade me not to volunteer details. I have given you more than you require for ascertaining the truth for yourself. I did that ascertaining the truth was your obligation prior to your writing me.

It is only because of the Archives constant intent to force me to go to court without need and the GSA's rubber-stamping of this together without your telling me to do the same thing that I do not include the names of the others to whom I refer. Unless and until this is in court there is no need. However, with regard to the one solicited to ask for what I had been refused, the letter agreement, I tell you that I have published this account in much greater detail without protest from that person or Dr. Rhoads. That other person was my source. With regard to the other researcher who has had free access to my files and who was given these internal records relevant to my FOIA request when they had not been given to me, I have the copies he provided me in the dated envelope in which he provided them and I am without doubt that he will provide an affidavit in much greater detail than I have. I am mailing him a copy of this and if he informs me to the contrary I will inform you. I do not expect this.

Sincerely,

Harold Weisberg

Dear Jim,

1/7/77

Herewith the GSA's newest rejection of my request, here of the appeal, for the photographs of JFK's clothing that originally went to court as C.A.70-2569. Also my long and detailed response.

I did chose to ignore some of their greater stupidities.

I am wondering if I can now file not only in Maryland or Washington but also in Wisconsin.

I believe I have a Wisconsin equity in this matter.

If I can file there I would accompany the filing with a request for the awarding of damages and specify that any damages awarded be given not to me but the the university for use in any manner it sees fit in connection with the archive.

I would not now have the need to publish these pictures. I would deposit them in the ~~ix~~ archive. I might hold a press conference and give copies away.

And of course I would give them to the House committee.

There are other possibilities but first there is the question, can I file there?

If I am not mistaken one of the requests I made of DJ, a request still not met, is for before and after pictures of the damage to the shirt, before and after the taking of samples for testing.

The tie, of course, gives the whole thing away.

To the degree I do not expect much of the records to be provided.

Best,

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



January 3, 1977

Mr. Harold Weisberg
Route 12
Frederick, MD 21701

Dear Mr. Weisberg:

This is in response to your letter dated November 24, 1976, in which you appeal under the Freedom of Information Act the decision made on November 22, 1976, by the Archivist of the United States, James B. Rhoads, to deny you access to certain administrative files of the National Archives. Your appeal was received in the office of the Director of Information, General Services Administration, on December 3, 1976.

We have reviewed the material which was originally denied to you by Dr. Rhoads and find that we are in agreement with his decision. I, therefore, deny your appeal pursuant to the following exemptions from mandatory disclosure of the Freedom of Information Act (5 U.S.C. 552).

1. Photographs and negatives made by the National Archives of the clothing worn by President Kennedy at the time of the assassination are denied to you under 5 U.S.C. 552(b)(3), matters "specifically exempted from disclosure by statute." The statute at issue is 44 U.S.C. 2107 and 2108 which provide that the Administrator of General Services may accept for deposit the papers and other historical materials of a President or former President of the United States subject to restrictions on their use imposed by the donors and agreeable to the Administrator. Mr. Burke Marshall, representing the Kennedy family, specified that the Administrator (and by delegation of authority, the Archivist) should impose appropriate restrictions on access to President Kennedy's clothing. In conformance with Mr. Marshall's expressed wish that requests for access to the clothing be handled in a manner that would prevent undignified or sensational use or depiction, the National Archives prepared photographs of the clothing which are shown to researchers. As specified in regulations relating to Warren Commission reference service; researchers are not sold copies of the photographs. You have previously been provided copies of the agreement with the Kennedy family (dated October 29, 1966) and the regulations on Warren Commission reference service. In addition, the photographs and negatives are denied to you under 5 U.S.C. 552(b)(6), "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

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2. Intra-agency and inter-agency memorandums and letters found among the records relating to requests you or other researchers have submitted for access to the medical/autopsy files found among the Warren Commission records, including those relating to your requests made in 1966 relating to various scientific tests, are denied to you under 5 U.S.C. 552(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." Correspondence with other researchers relating to similar reference requests is denied to you under 5 U.S.C. 552(b)(6), "personnel and medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

3. Records relating to the unknotting of the tie worn by President Kennedy and to other evidence are being provided to you. Related correspondence with other researchers is denied to you under 5 U.S.C. 552(b)(6).

4. Copies of records relating to the withholding and subsequent release or continued restriction of Warren Commission records are being provided to you except that related intra-agency or inter-agency memorandums and letters are denied to you under 5 U.S.C. 552(b)(5). Also, related correspondence with other researchers is denied to you under 5 U.S.C. 552(b)(6). In addition, deleted information in the letter from Lawrence R. Houston (CIA) to James B. Rhoads, dated December 22, 1972, and a letter from Charles E. Savage for Robert Young (CIA) to James B. Rhoads, dated May 20, 1975, are denied to you under 5 U.S.C. 552(b)(1), matters "(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order." These letters have been determined to be properly classified pursuant to Executive Order 11652 ("Classification and Declassification of National Security Information and Material") and exempt from declassification at this time.

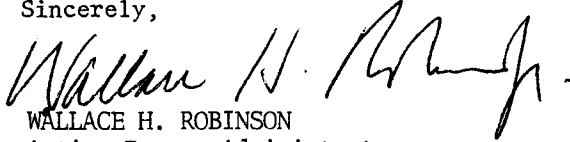
With respect to the internal memorandums denied you in paragraphs 2 and 4, we note that we are only withholding several documents which reflect internal deliberations on agency action in response to your correspondence. The purpose of the fifth exemption is the recognition by the Congress that Federal officials must be permitted to exchange ideas freely on controversial subjects. We have withheld no memorandums which reflect factual data or agency decisions.

With respect to correspondence with researchers withheld pursuant to the sixth exemption, it has long been the position of the National Archives that records, including correspondence, pertinent to a private individual's research should be protected from unwarranted incursions by third parties. Only in this way can we protect the integrity of an individual's research. Should you provide written authorization from another researcher that you be given access to the requested records pertinent to that researcher, we will provide you access to these documents.

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This represents the final administrative consideration of your request. You may seek judicial review of this decision by filing a civil action in the Federal District Court for the district in which you reside, or have your principal place of business, or in the District of Columbia.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wallace H. Robinson".

WALLACE H. ROBINSON
Acting Deputy Administrator