

Rt. 5, Frederick, Md. 21701  
8/2/75

Mr. Albert H. Leisinger Jr.  
Acting Assistant Archivist  
The National Archives  
Washington, D.C. 20408

Dear Mr. Leisinger,

While much of your letter of July 31 is informative and helpful, and for this I do thank you, some of it is factually incorrect. In addition, the enclosures to which it refers were not enclosed. There was but one, a copy of which I return to you herewith, pages 5 and 6 of a document including marked exemptions of 5 U.S.C. 552.

If you do not draft your own letters I think both our interests will be served by your reviewing all the correspondence to which your letter is supposed reply.

Your second paragraph, for example, refers only to my "original request" and goes on to say I had not asked for copies of all the documents released under the 1972-73 review. While there can be confusion about oral requests and I had requested this first orally, there cannot be any confusion about this. In another letter of July 9 to which you do not refer I wrote of these 1972-73 documents, "I also phoned to see if my deposit was sufficient to cover the costs of copying all of it." With that letter I enclosed a check for an additional \$400 because "When Mr. Leasing said you were copying this for me" he also reported my account would be about \$5 short.

Ignoring this and the check for the deposit, your letter of the 31st merely expresses a willingness to supply these documents. Under the circumstances, I do hope you will make the filling of this overdue request a priority item. I would also like to ask that if oversized envelopes are to be used, the contents should be wrapped. The lack thereof of several hundred documents was severely mutilated.

Your review of this recent correspondence will also show that your (B) is the first response to a question I had asked often without any response.

The July 9 letter to which you respond ~~long~~ request copies of documents relating to the alleged reasons for both classification and declassification or withholding and releasing. You enclose no single such paper. You say of some that copies are being supplied and of others that copies can be. All of this, obviously, is an impediment to my work. So there will be no doubt, I did intend the request to cover these documents and I would appreciate copies as soon as you can supply them. All referred to:

When I do not have them and the enclosures basic to an understanding of your letter were not enclosed, I am largely forewarned from carrying this further or even understanding what you are talking about in many cases.

As best without these I can understand the rest of your letter I do think there are going to be questions and I do think an inquiry by you or another person with a part of proper responsibility is appropriate.

One of the allegations that any document "related to... relations with Mexico" is properly exempt. This is neither the language nor the intent of Executive Order (E.O.) 11652. That relates only "to matters that are -- ...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." Separate from whether or not "properly classified," two of those to which you refer were ~~being~~ classified, OEs 454 and 702. There then remains the meeting of the requirements of (A) and there is no showing of it or reason to believe it. At no point does your language even suggest that all these criteria - or any - were met.

In (3) your formulation is "because relations with a foreign country were involved." This also is not the test. Even public mention of any foreign country by any public official by this standard could be withheld after utterance. Besides, if this had been a concern, there would not have been the diligent looking, selectively, of what was prejudicial in this series of files. Nor would the Commission have published these files as extensively as it did.

From my reading of these of these documents that have now been released there never was any legitimate reason for withholding them and to suggest, as your formulation in (4) does, that "the question of foreign relations with Mexico" really is not reasonable.

Because until I receive the rest of what I have asked for it is not possible for me to file a formal appeal, I do hope you will make a personal inquiry into these questions and avoid the embarrassment I think can result if they are to go further.

(Perhaps this accounts for the lack of citation of any executive order or any provision of any?)

I suggest there is the same situation with regard to you<sup>(7)</sup> and (9). I believe that if this material is to be withheld another exemption must be applicable. This is the inter- and intra-agency memo provision qualified by the "not be available by law" proviso. Now the memo for which this exemption might be claimed is not withheld. You have given me 111 pages plus some attachments. You are claiming the exemption for the entire memo for a few short passages. Some have been disclosed and do not qualify for this or any other exemption. Others still withheld from me have been provided to another. Were the exemption applicable you have waived it under controlling decisions. There is no exemption authorizing the withholding of what can embarrass an agency or an official. The law and its history could not be more explicitly to the contrary.

Whether or not an executive session transcript in itself qualifies for Exemption 5, and I do not think it does, your citation of it in (9)(1) says (emphasis added): "Exhibit pages 63-73 of transcript of executive session of the Commission, which relates to defectors without naming Kosenko." You give no date and there are more than one set of pages so numbered. However, I presume you refer to the transcript of 1/21/64. That would be something were it to relate to the defector Kosenko the month before he defected!

In any event, are you seriously claiming that the only exemption applicable to an intelligence defector is (5)? Or that this exemption is a license to withhold all memoranda?

You and I have had no prior dealings. I do not know what you have been told about me or the suits I have filed or their results. There is a long record of spurious invocations of the right to withhold. There are court records of official dishonesty I detest having to write about my government, more when the subjects are the assassination of a President and official conduct thereafter. I would prefer that at some point all this stonewalling and worse come to an end. I would prefer not to have to carry this further. I certainly would prefer that if you have not made a personal inquiry and satisfied yourself personally and fully about those matters of which you write me you do it in your own interest. I think this letter, which is by no means full, ought give you an indication of the reasons that were I you I'd find compelling.

I will do nothing further until I receive what you say is to come and what I have asked for again in this letter, all records having to do with the withholding and releasing of these records cited. I do hope that these and the missing pages of the 1972-73 declassification will now be speeded up.

Sincerely,

Harold Weisberg

Dear Jim,

8/2/75

Don't interrupt the too many things for which you now do not have time for reading the attached Leisinger letter of 7/31 and my today's response, which won't go out until Monday. Save it for when you want a change of pace or something to which to look forward.

I say "look forward" for many reasons. One is that I know the content and the reasons for the withholding from me with some reasonable certainty and it is to avoid official embarrassment, especially but not exclusively the CIA and the Commission. What they are still withholding must be more embarrassing than what I've gotten, which would embarrass the hell out of me. (I've given you notes on all this Nosenko stuff.)

Please note, when you read this, references to a properly unidentified researcher. I have a notion it may be Paul. You may have records that will say. He has been silent on this with me whereas on his assurance that he would never write on this I was giving him copies of all my work, including personal investigations he could not duplicate.

In any event, I think this is another of those Archives Horrors. I'll have no choice but to take my time. They keep holding back what I need. I can't rush and I don't want to. Instead I'll take the time to build a record.

What I've written Leisinger is what I spotted in a single reading, all I had time for. It is not all of what I spotted.

While I think these guys are so crooked they never believe anyone else is ever honest, Leisinger is new to me and I have taken this time in part so that if he has any concern for his own integrity or any kids and their regard for him he'll know and have a chance to clean his face. (His letter is so confused that in Item 2 he refers to see Item 2 above.) I go on the assumption that at some point there may be an honest man and that he will rebel.

However, I also believe that he will not totally ignore this letter. He'll bounce it back to Johnson, if Johnson drafted it. Or up above, where they will have to face it and more. And I would rather not have to argue and appeal. This gives them a chance to avoid trouble for them and for me.

There is an aspect I've mentioned before and I'd rather have you keep confidential, as I think I mentioned before. This whole thing is classified Hoover. He set out from the beginning to screw the CIA and the Commission with Nosenko. He not only wrote a very polite scenario (which I have) which hoist the Commission on two petards - its and his - but accurately figured that Helms and his would keep everything secret. Not without relevance is Dulles' executive session musing that Hoover had no operatives in the USSR.

I don't want to play Hoover's game. I want to build a full and honest record on the material as well as the dishonesties in withholding. If we never know what can break this open, Nosenko aspects can. And I don't want the nuts meddling with it. And Hoover only seemed to be fully informative and forthright on Nosenko.

This is still another example of the permeating incompetence of even the big-name reporters in investigative reporting. Those who have this stuff have not understood it. The unidentified applicant seems to have been satisfied too easily.

When the time for response passed I started preparing an appeal. I have an enormous stack of notes for it. I'm sure he has not responded to all the questions I asked. There is nothing, for example on the missing scientific stuff for 226-75. I'm letting that, too, wait until I have everything they have not sent and are supposed to. I'm not sure but I'm pretty sure that where I did not invoke FOIA they made no response at all, which makes another kind of record.

I'm sending Tom a copy for his information.

Best,

UNITED STATES OF AMERICA  
GENERAL SERVICES ADMINISTRATION  
*National Archives and Records Service*  
Washington, DC 20408



July 31, 1975

Mr. Harold Weisberg  
Rt. 8  
Frederick, Maryland 21701

Dear Mr. Weisberg:

This is in reply to your letter of July 6, 1975, received in this office on July 9, 1975, in which you make requests concerning the records of the President's Commission on the assassination of President Kennedy under the Freedom of Information Act (5 U.S.C. 552) as amended.

Your original request was for copies of all records released since the last regular review, which was in 1972-73. If you want copies of all records released by that review, except the CIA documents we have already furnished you, we will be pleased to furnish them.

You make FOIA (Freedom of Information Act) requests for records concerning the following:

- (1) The withholding from research of Commission Document 702. The documents which withheld CD 702 from research, both of which can be made available to you, are letters of the Department of Justice of August 13, 1965 (see attached List C withholding it), and of November 3, 1970, not listing it for release. We released it when we found in the course of reference service that it had been published.
- (2) Declassification of a letter of May 22, 1964, from J. Edgar Hoover to J. Lee Rankin relating to Mexican tourist permits. This letter was the cover letter for Commission Document 965 and was not related with that document (see List E attached to the Department of Justice letter of August 13, 1965, in item 2 above). We withheld the letter in our 1967-68 review of the unnumbered documents (Government Agencies Involved - FBI) because it related to Oswald's Mexican trip and relations with Mexico. It was among the records the Department of Justice asked us to continue to withhold in the 1972-73 review by its letter of April 18, 1972, in response to our letter of May 15, 1972, both of which can be

made available to you. We declassified the letter of May 22, 1964, from J. Edgar Hoover to J. Lee Rankin on the basis of the declassification of its enclosure (CD 965) by the Department of Justice letter of August 13, 1965, when we found a copy of the letter in screening the Oswald Mexico trip file for a researcher.

- (3) Declassification of a letter of July 7, 1964, relating to Mexican Immigration Department records, 46 enclosures of which had been forwarded with it. We do not have records that show the reasons why documents were classified or declassified. Presumably the classified documents relating to investigation of Oswald's trip to Mexico were classified because relations with a foreign country were involved. We released this document when we could do so in screening the file for Oswald's Mexico trip.
- (4) Declassification of a letter of J. Lee Rankin to J. Edgar Hoover of April 24, 1964. This letter was withheld from research in our 1967-68 review of the unnumbered documents of the Commission because it involved the investigation of the Mexican trip of Oswald and the question of foreign relations with Mexico. It was among the records the Department of Justice requested us to continue to withhold by its letter of April 18, 1973 (item 3 above). It was declassified and released by a letter of January 24, 1975, from the Department of Justice in response to our letter of July 31, 1974. We have been unable to identify the dossier furnished to Ambassador Mann.
- (5) Records relating to the withholding and releasing of the FBI letterhead memorandum (LHM) on interviews with Yuri Nosenko (Commission Document 434). CD 434 is a duplicate of part of the portion of Commission Document 651 declassified and released by the Department of Justice by its letter of January 24, 1975 (item 4 above) except the deleted matter on the first page of CD 434. The letter of January 24, 1975, was therefore regarded as authority for the release of CD 434 with the deletion. The deleted part of the first paragraph of CD 434 is denied to you under 5 U.S.C. 552 (b) (5).
- (6) Page dated October 27, 1959, dealing with Oswald's hospitalization. As stated in our letter of June 17, 1975, the page relating to Oswald's Moscow hospitalization on October 27, 1959, is from the Oswald-Ruby Chronology in the Commission's records. It was previously withheld from research because it contained information from a document withheld from research.

- (7) Deletions in the Colson-Sisson memoranda on Cowley's foreign activities. The deleted material is denied to you under 5 U.S.C. 552 (b) (5).
- (8) CIA interviews or reports relating to John Roberts told the FBI. No documents of this kind have been found in the records of the Commission.
- (9) Roberts records of any kind will be deleted. These records consist of the following:
  - (a) Letter of Roberts to Rosen, March 2, 1964.
  - (b) Memorandum of Roberts to James, Wickham, Ball and Malin, March 4, 1964.
  - (c) Memorandum of Colson and Sisson to Rosen, March 12, 1964.
  - (d) Memorandum of Sisson to Rankin, July 15, 1964.
  - (e) Memorandum of Sisson to Colson, July 17, 1964.
  - (f) Memorandum of July 23, 1964 (no names given).
  - (g) Memorandum of Sisson to Rankin, August 22, 1964.
  - (h) Transcript of executive session of Commission of June 23, 1964.
  - (i) Perhaps pages 63-73 of transcript of executive session of the Commission, which relate to Safeway without naming Rosenko.
  - (j) Page 1 of Commission Document 651.
  - (k) Cover letter of CD 651.

These records relating to Rosenko are denied to you under 5 U.S.C. 552 (b) (5). Page 2 of CD 651 relating to Rosenko can be supplied to you. No other FBI records relating to Rosenko have been found among the records of the Commission. We regret that a few items relating to Rosenko listed above were inadvertently omitted in our previous letter to you.

Related to the withholding of these records are the following documents:

- (1) Note of Marion M. Johnson (NARS) to Arthur Dooley (CIA) of August 14, 1967, which can be made available to you. The lists

of documents referred to in the note are denied to you under 5 U.S.C. 552 (b) (5).

- (2) Letter of Thomas H. Karamessines, Deputy Director for Plans, CIA, to Robert H. Bahmer, Archivist of the United States, of October 2, 1967. This letter is denied to you under 5 U.S.C. 552 (b) (1).
  - (3) Letter of May 1, 1975, of Robert S. Young, FOI Coordinator, CIA, to James B. Rhoads, which can be made available to you.
  - (4) Note of Marion M. Johnson (NARS) to Charles P. Dexter (CIA) July 30, 1974, and letter of John D. Morrison, Jr., Acting General Counsel, CIA, to James B. Rhoads, October 1, 1974, which can be made available to you.
- (10) Declassification of certain records on March 13, 1975:

The declassification actions on these records on that date resulted from finishing up work on requests for reviews of those records from a researcher in order to transmit copies to him. Our correspondence with him, consisting of our letters sent to him dated July 10 and August 13, 1974, and March 17 and April 15, 1975, as well as letters received from him dated August 5 and November 9, 1974 and January 8 and March 1, 1975, is denied to you under 5 U.S.C. 552 (b) (6).

The specific records to which you refer in this request apparently are the following:

- (a) Pages 23-34 of Commission Document 651 relating to Yuri Nosenko. These pages were withheld from research in 1965 and 1970 at the request of the Department of Justice in its letters listed in item 4 above. They were declassified by the letter of January 24, 1975, of the Department also listed in item 4 above.
- (b) The letter of J. Lee Rankin to J. Edgar Hoover dated April 24, 1964. This letter was withheld from research by the National Archives in our 1967-68 review of the records because of the relevance of the letter to the investigation of Oswald's Mexican trip and the question of Mexican-American relations. The Department of Justice asked us to continue to withhold the records which included this letter in its letter of April 18, 1973 (item 2 above).

Transcript of an executive session of the Commission of January 21, 1964. A transcript was prepared by a Department of Defense stenotypist from the reporter's notes for that session and classified on the basis of the classification of the reporter's notes. A note of Marion M. Johnson (NARS) to Mark Grunwald (Department of Justice) of November 12, 1974, requesting a review of the transcript and the reply of the Department of February 26, 1975, will be furnished to you.

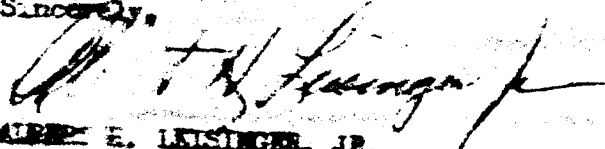
(d) The undated Coleman-Slawson memorandum on Oswald's foreign activities. Most of this memorandum was declassified by the National Archives on the basis of published information. A letter of Charles E. Savage (CIA) to James B. Rhoads relating to declassification of a portion of the memorandum is denied to you under U.S.C. 552 (b) (1).

Enclosed is a copy of the exceptions in U.S.C. 552 (b) which include those cited in this letter. The copies of records we are furnishing you are being sent to you separately.

The CIA will respond to you separately concerning its security classified letters denied to you in this letter.

You may appeal the denials to you in this letter to the Deputy Archivist of the United States, National Archives and Records Service, Washington, DC 20408. Denials of security classified documents, which includes part of the deleted portions in the Coleman-Slawson memorandum on Oswald's foreign activities, may also be appealed to the Interagency Classification Review Committee, National Archives Building, Room 604, Washington, DC 20408.

Sincerely,

  
ALBERT E. LEISINGER, JR.  
Acting Assistant Archivist  
for the National Archives

Enclosures:



(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;  
or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are--

(1)(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;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(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;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include--

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;