

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

Office of General Counsel
Washington, D.C. 20405



DATE: FEB 28 1973

REPLY TO
ATTN OF: Assistant General Counsel - LR

SUBJECT: Correspondence with Mr. Harold Weisberg
Archivist of the United States - N

Pursuant to your memorandum of February 8, we have examined the records requested by Mr. Weisberg in his letter of February 2, in light of the requirements of the Freedom of Information Act.

Mr. Weisberg's request uncovers several complex legal questions, which we feel, on account of your policy decision to restrict access to certain of these records at this time, need not be examined until such time as there is an administrative appeal from their denial. Included are the questions of whether working papers or drafts, when they have obvious historical value, are in fact records for the purposes of the Act, and whether the transmittal memorandums to these drafts, quite innocuous when examined separately, may in like manner be withheld as inter-agency or intra-agency letters or memorandums. Should there be an administrative appeal, we anticipate the necessity of our meeting to discuss your objections to access in light of the ambiguous legal ramifications.

For the time being, we concur in the draft response prepared by Mr. Johnson with the following minor changes:

- 1) the second sentence of the third paragraph should be changed and a third sentence added as follows:

On a subsequent review of the report, it was found that the provisions of this subsection, as interpreted by recent judicial decisions, were no longer applicable. However, at no time was this document security classified, as your letter would imply your understanding.

- 2) the last sentence of the fifth paragraph should be changed as follows:

... as "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," or are working papers which are not records for the purposes of the Freedom of Information Act.

for
Steven J. Yock

ROBERT J. YOCK
Assistant General Counsel
Keep Freedom in Your Future With U.S. Savings Bonds

*[Please send copies of incoming and outgoing letters to
the Office of Legal Counsel of the Department of Justice]*

D R A F T

2/7/73

Dear Mr. Weisberg:

This is in reply to your letter of February 2, 1973.

~~As we do~~ not have the original of the "Report of Inspection by Naval Medical Staff on November 1, 1966 at National Archives of X-rays and Photographs of Autopsy of President John F. Kennedy," we are referring a copy of your letter to the Department of Justice in regard to your request for a copy of the report made from the original.

As you know, the report of the Naval Medical Staff was previously withheld from research under the terms of 5 U.S.C. 552, subsection (b) (6), as a part of "medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" of the family of the late President Kennedy. On a subsequent review of the report, it was found that the provisions of ~~5 U.S.C. 552~~ *this subsection, as interpreted* ~~were no longer applicable.~~ *by recent judicial decisions, were no longer applicable. However, at no time was this document security classified, as your letter would imply your understanding.* We are not aware of any other documents that contain information concerning the actions of the Secret Service agent in seizing and exposing a film at the autopsy. If you know of any relevant documents that have been published, we shall be pleased to make them available to you.

Enclosed are copies of an unsigned draft of the report of the Naval Medical Staff and a memorandum from the Department of Justice to the

National Archives dated January 13, 1967, entitled "Authentication of Kennedy Autopsy Pictures." Additional documents leading to the report of the Naval Medical Staff are withheld from research under the terms of 5 U.S.C. 552, subsection (b) (5), as "inter-agency or intra-agency memorandums or letters which would not be available ^{by law} to a ~~private~~ party ~~other than an agency~~ in litigation with the agency," or are working papers which are not records for the purposes of the Freedom of Information Act.

If you will specify the materials denied to you that you want reviewed, we shall be pleased to consider your request for a review.

Sincerely,

JAMES B. RHOADS
Archivist of the United States