

7/30/73

Senator Lowell Weicher
U.S. Senate
Washington, D.C.

Dear Senator Weicher,

I begin this hasty letter during today's recess to consider the committee's attitude toward Mr. Buzhardt's letter presented by Mr. Wilson.

It is my layman's opinion that any right that might have existed to withhold these two tapes has been waived under an entirely different law, 5 U.S.C. 552. One of the decisions that I believe binding is American Mail Lines v. Gulick, federal district court in Washington.

This is the "Freedom of Information" law.

I do not believe there can be a more definitive waiver, on the tapes of these two days at least.

Any citizen has rights to "public information" except what is made subject to withholding by nine specific exemptions. Exemption is not mandatory. The executive branch can make available what it has the right to withhold. But it cannot do this selectively. All citizens have the same rights.

Were it within my capability, I would now ask to hear the original tapes to which Haldeman was given access and to which he made public reference. The law stipulates promptness in response. If there is a denial, upon filing a Complaint the case automatically goes to the head of the calendar.

I would be reluctant to suggest that I have competence to offer an opinion on whether all the tapes can be considered as a unit under the law or the decisions of which I have knowledge or copies. I have used this law three times. The third case is headed to the Supreme Court very soon.

In the first I got a summary judgement. In arguing an appeal on the third the Department of Justice certified to the court of appeals that Mr. Kleindienst is a liar, relating to the first case. He was then Deputy Attorney General.

I am not familiar with any White House regulations, if any, under this law. My use of it led to a response by John Dean, which I sent to your counsel, without acknowledgement. Because my request was addressed to Clawson, I presume this to mean that under the law, the President's counsel is the one who handled requests for "public information."

If I can help in any way, please let me know.

Sincerely,

Harold Weisberg