

# File #:

Released under the John F. Kennedy  
Assassination Records Collection Act of  
1992 (44 USC 2107 Note). Case#:NW  
55994 Date: 11-01-2021

62-HD-2986

# Serial Scope:

1 thru 8, 11

This document is made available through the declassification efforts  
and research of John Greenewald, Jr., creator of:

# The Black Vault

---



The Black Vault is the largest online Freedom of Information Act (FOIA) document clearinghouse in the world. The research efforts here are responsible for the declassification of hundreds of thousands of pages released by the U.S. Government & Military.

**Discover the Truth** at: **<http://www.theblackvault.com>**

TRANSMIT VIA: AIRTEL

CLASSIFICATION: UNCLAS

DATE: 5/13/93

FROM: DIRECTOR, FBI (62A-HQ-1036360) *PR*

TO: SAC, HOUSTON (62A-HQ-1036360)

SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

POW MIA MATTER  
227-0-52

SENATE SELECT COMMITTEE

211-8\* 62-2986\*

100-13617\* ReHQairtels to Director, FBI dated 9/22/92, captioned MUSHTAQ AHMED DIWAN; POW/MIA FRAUD MATTERS, and 10/8/92, captioned as above. File number 66-2170 has been changed into 62A-HQ-1036360.

Enclosed for the Houston Field Office (HO) are the original files: 185A-121 and 265-MM-50339.

HO files were reviewed by the Civil Discovery Review Unit (CDRU), Legal Counsel Division (LCD), for documents responsive to the above-captioned Congressional Request. CDRU determined that the files contained no relevant material.

Any questions regarding this matter should be directed to Paralegal Specialist JAMES B. STROUD, CDRU, LCD, on extension 3595.

Enclosure *gld*

62-2986-11

SEARCHED <i>PMG</i>	INDEXED <i>gld</i>
MANUAL <i>gld</i>	FILED <i>gld</i>
SERIALIZED	
MAY 17 1993	
FBI - HOUSTON	

TRANSMIT VIA: AIRTEL

CLASSIFICATION: UNCLAS

DATE: 5/13/93

FROM: DIRECTOR, FBI (62A-HQ-1036360)

TO: SAC, HOUSTON (62A-HQ-1036360)

SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

ReHOairtels to Director, FBI dated 9/22/92, captioned MUSHTAQ AHMED DIWAN; POW/MIA FRAUD MATTERS, and 10/8/92, captioned as above. File number 66-2170 has been changed into 62A-HQ-1036360.

Enclosed for the Houston Field Office (HO) are the original files: 185A-121 and 265-MM-50339.

HO files were reviewed by the Civil Discovery Review Unit (CDRU), Legal Counsel Division (LCD), for documents responsive to the above-captioned Congressional Request. CDRU determined that the files contained no relevant material.

Any questions regarding this matter should be directed to Paralegal Specialist JAMES B. STROUD, CDRU, LCD, on extension 3595.

Enclosure

62-2986-4

SEARCHED: <input checked="" type="checkbox"/>	INDEXED: <input checked="" type="checkbox"/>
FOIMS: <input checked="" type="checkbox"/>	FILED: <input checked="" type="checkbox"/>
MANUAL: <input checked="" type="checkbox"/>	
SERIALIZED: <input checked="" type="checkbox"/>	
MAY 17 1993	
FBI - HOUSTON	

TO: SAC:

<input type="checkbox"/> Albany	<input type="checkbox"/> Houston
<input type="checkbox"/> Albuquerque	<input type="checkbox"/> Indianapolis
<input type="checkbox"/> Alexandria	<input type="checkbox"/> Jackson
<input type="checkbox"/> Anchorage	<input type="checkbox"/> Jacksonville
<input type="checkbox"/> Atlanta	<input type="checkbox"/> Kansas City
<input type="checkbox"/> Baltimore	<input type="checkbox"/> Knoxville
<input type="checkbox"/> Birmingham	<input type="checkbox"/> Las Vegas
<input type="checkbox"/> Boston	<input type="checkbox"/> Little Rock
<input type="checkbox"/> Buffalo	<input type="checkbox"/> Los Angeles
<input type="checkbox"/> Butte	<input type="checkbox"/> Louisville
<input type="checkbox"/> Charlotte	<input type="checkbox"/> Memphis
<input type="checkbox"/> Chicago	<input type="checkbox"/> Miami
<input type="checkbox"/> Cincinnati	<input type="checkbox"/> Milwaukee
<input type="checkbox"/> Cleveland	<input type="checkbox"/> Minneapolis
<input type="checkbox"/> Columbia	<input type="checkbox"/> Mobile
<input type="checkbox"/> Dallas	<input type="checkbox"/> Newark
<input type="checkbox"/> Denver	<input type="checkbox"/> New Haven
<input type="checkbox"/> Detroit	<input type="checkbox"/> New Orleans
<input type="checkbox"/> El Paso	<input type="checkbox"/> New York City
<input type="checkbox"/> Honolulu	<input type="checkbox"/> Norfolk

<input type="checkbox"/> Oklahoma City
<input type="checkbox"/> Omaha
<input type="checkbox"/> Philadelphia
<input type="checkbox"/> Phoenix
<input type="checkbox"/> Pittsburgh
<input type="checkbox"/> Portland
<input type="checkbox"/> Richmond
<input type="checkbox"/> Sacramento
<input type="checkbox"/> St. Louis
<input type="checkbox"/> Salt Lake City
<input type="checkbox"/> San Antonio
<input type="checkbox"/> San Diego
<input type="checkbox"/> San Francisco
<input type="checkbox"/> San Juan
<input type="checkbox"/> Savannah
<input type="checkbox"/> Seattle
<input type="checkbox"/> Springfield
<input type="checkbox"/> Tampa
<input type="checkbox"/> Washington Field
<input type="checkbox"/> Quantico

TO LEGAT:

<input type="checkbox"/> Bern
<input type="checkbox"/> Bonn
<input type="checkbox"/> Brasilia
<input type="checkbox"/> Buenos Aires
<input type="checkbox"/> Caracas
<input type="checkbox"/> Hong Kong
<input type="checkbox"/> London
<input type="checkbox"/> Madrid
<input type="checkbox"/> Manila
<input type="checkbox"/> Mexico City
<input type="checkbox"/> Ottawa
<input type="checkbox"/> Paris
<input type="checkbox"/> Rome
<input type="checkbox"/> Tel Aviv
<input type="checkbox"/> Tokyo

Date December 5, 1975

RE: TESTIMONY OF ASSISTANT TO THE DIRECTOR--  
~~DEPUTY ASSOCIATE DIRECTOR JAMES B. ADAMS~~  
~~BEFORE THE SENATE SELECT COMMITTEE ON~~  
12/2/75

62-2986

☐ For information ☐ Retention optional ☐ For appropriate action ☐ Surep, by \_\_\_\_\_

☐ The enclosed is for your information. If used in a future report, ☐ conceal all sources, ☐ paraphrase contents.

☐ Enclosed are corrected pages from report of SA \_\_\_\_\_ dated \_\_\_\_\_

Remarks:

Re Bureau R/S of 12/4/75 which provided excerpts of Mr. Adams' testimony.

Attached for your information and assistance, is the complete transcript of above-referenced testimony.

UNEDITED TRANSCRIPT

Enc. (1)  
Bufile  
Urfile

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 3 1975	
FBI-HOUSTON	

Vol. 15

# The United States Senate

---

## Report of Proceedings

---

Hearing held before

Select Committee to Study Governmental Operations

With Respect to Intelligence Activities

INTELLIGENCE INVESTIGATION

---

Tuesday, December 2, 1975

Washington, D. C.

---

WARD & PAUL  
410 FIRST STREET, S. E.  
WASHINGTON, D. C. 20003

(202) 544-6000

11 Senator Tower. The next witnesses to appear before the  
12 Committee are Mr. James Adams, Assistant to the Director-  
13 Deputy Associate Director, Investigation, responsible for all  
14 investigative operations; Mr. W. Raymond Wannall, Assistant  
15 Director, Intelligence Division, responsible for internal  
16 security and foreign counterintelligence investigations; Mr.  
17 John A. Mintz, Assistant Director, Legal Counsel Division;  
18 Joseph G. Deegan, Section Chief, extremist investigations;  
19 Mr. Robert L. Schackelford, Section Chief, subversive  
20 investigations; Mr. Homer A. Newman, Jr., Assistant to Section  
21 Chief, supervises extremist informants; Mr. Edward P. Grigalun,  
22 Unit Chief, supervises subversive informants; Joseph G. Kelley,  
23 Assistant Section Chief, Civil Rights Section, General Investi-  
24 gative Division.

25 Gentlemen, will you all rise and be sworn.

1 Do you solemnly swear the testimony you are about to give  
2 before this Committee is the truth, the whole truth, and nothing  
3 but the truth, so help you God?

4 Mr. Adams. I do.

5 Mr. Wannall. I do.

6 Mr. Mintz. I do.

7 Mr. Deegan. I do.

8 Mr. Schackelford. I do.

9 Mr. Newman. I do.

10 Mr. Grigalus. I do.

11 Mr. Kelley. I do.

12 Senator Tower. It is intended that Mr. Wannall will be  
13 the principal witness, and we will call on others as questioning  
14 might require, and I would direct each of you when you do  
15 respond, to identify yourselves, please, for the record.

16 I think that we will spend just a few more minutes to allow  
17 the members of the Committee to return from the floor.

18 (A brief recess was taken.)

19 Senator Tower. The Committee will come to order.

20 Mr. Wannall, according to data, informants provide 83  
21 percent of your intelligence information.

22 Now, will you provide the Committee with some information  
23 on the criteria for the selection of informants?

24

25

1 TESTIMONY OF W. RAYMOND WANNALL, ASSISTANT DIRECTOR,  
2 INTELLIGENCE DIVISION, FEDERAL BUREAU OF INVESTIGATION  
3 ACCOMPANIED BY: JAMES B. ADAMS, ASSISTANT TO THE  
4 DIRECTOR-DEPUTY ASSOCIATE DIRECTOR (INVESTIGATION);  
5 JOHN A. MINTZ, ASSISTANT DIRECTOR, LEGAL COUNSEL  
6 DIVISION; JOSEPH G. DEEGAN, SECTION CHIEF; ROBERT L.  
7 SCHACKELFORD, SECTION CHIEF; HOMER A. NEWMAN, JR.,  
8 ASSISTANT TO SECTION CHIEF; EDWARD P. GRIGALUS, UNIT  
9 CHIEF; AND JOSEPH G. KELLEY, ASSISTANT SECTION CHIEF,  
10 CIVIL RIGHTS SECTION, GENERAL INVESTIGATIVE DIVISION  
11 Mr. Wannall. Mr. Chairman, that is not FBI data that you

12 have quoted. That was prepared by the General Accounting  
13 Office.

14 Senator Tower. That is GAO.

15 Mr. Wannall. Based on a sampling of about 93 cases.

16 Senator Tower. Would that appear to be a fairly accurate  
17 figure.

18 Mr. Wannall. I have not seen any survey which the FBI  
19 itself has conducted that would confirm that, but I think that  
20 we do get the principal portion of our information from live  
21 sources.

22 Senator Tower. It would be a relatively high percent  
23 then?

24 Mr. Wannall. I would say yes. And your ques  
25 criteria?

1 Senator Tower. What criteria do you use in the selection  
2 of informants?

3 Mr. Wannall. Well, the criteria vary with the needs. In  
4 our cases relating to extremist matters, surely in order to get  
5 an informant who can meld into a group which is engaged in a  
6 criminal type activity, you're going to have a different set  
7 of criteria. If you're talking about our internal security  
8 matters, I think we set rather high standards. We do require  
9 that a preliminary inquiry be conducted which would consist  
10 principally of checks of our headquarters indices, our field  
11 office indices, checks with other informants who are operating  
12 in the same area, and in various established sources such as  
13 local police departments.

14 Following this, if it appears that the person is the type  
15 who has credibility, can be depended upon to be reliable, we  
16 would interview the individual in order to make a determination  
17 as to whether or not he will be willing to assist the FBI  
18 in discharging its responsibilities in that field.

19 Following that, assuming that the answer is positive, we  
20 would conduct a rather in depth investigation for the purpose  
21 of further attempting to establish credibility and reliability.

22 Senator Tower. How does the Bureau distinguish between  
23 the use of informants for law enforcement as opposed to  
24 intelligence collection?

25 Is the guidance different, or is it the same, or what?

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 Mr. Wannall. Well, Mr. Adams can probably best address  
2 the use of informants on criminal matters since he is over  
3 the operational division on that.

4 Mr. Adams. You do have somewhat of a difference in the fact  
5 that a criminal informant in a law enforcement function, you  
6 are trying to develop evidence which will be admissible in  
7 court for prosecution, whereas with intelligence, the informant  
8 alone, your purpose could either be prosecution or it could be  
9 just for purposes of pure intelligence.

10 The difficulty in both is retaining the confidentiality  
11 of the individual and protecting the individual, and trying to,  
12 through use of the informant, obtain evidence which could be  
13 used independently of the testimony of the informant so that  
14 he can continue operating as a criminal informant.

15 Senator Tower. Are these informants ever authorized to  
16 function as provocateurs?

17 Mr. Adams. No, sir, they're not. We have strict regula-  
18 tions against using informants as provocateurs. This gets  
19 into that delicate area of entrapment which has been addressed  
20 by the courts on many occasions and has been concluded by the  
21 courts that providing an individual has a willingness to engage  
22 in an activity, the government has the right to provide him the  
23 opportunity. This does not mean, of course, that mistakes don't  
24 occur in this area, but we take whatever steps we can to  
25 avoid this. Even the law has recognized that informants can

1 engage in criminal activity, and the courts have held that,  
2 especially the Supreme Court in the Newark County Case, that  
3 the very difficulty of penetrating an ongoing operation, that  
4 an informant himself can engage in criminal activity, but  
5 because there is lacking this criminal intent to violate a  
6 law, we stay away from that. Our regulations fall short of that.

7 If we have a situation where we felt that an informant  
8 has to become involved in some activity in order to protect  
9 or conceal his use as an informant, we go right to the United  
10 States Attorney or to the Attorney General to try to make sure  
11 we are not stepping out of bounds insofar as the use of our  
12 informants.

13 Senator Tower. But you do use these informants and do  
14 instruct them to spread dissension among certain groups that  
15 they are informing on, do you not?

16 Mr. Adams. We did when we had the COINTELPRO programs,  
17 which were discontinued in 1971, and I think the Klan is probably  
18 one of the best examples of a situation where the law was  
19 in effect at the time. We heard the term States Rights used  
20 much more then than we hear it today. We saw in the Little  
21 Rock situation the President of the United States, in sending  
22 in the troops, pointing out the necessity to use local law  
23 enforcement. We must have local law enforcement, to use the  
24 troops only as a last resort.

25 And then you have a situation like this where you do try

smn 21

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 to preserve the respective roles in law enforcement. You have  
2 historical problems with the Klan coming along. We had  
3 situations where the FBI and the Federal Government was almost  
4 powerless to act. We had local law enforcement officers in  
5 some areas participating in Klan violence.

6 The instances mentioned by Mr. Rowe, every one of those,  
7 he saw them from the lowest level of the informant. He didn't  
8 see what action was taken with that information, as he pointed  
9 out in his testimony. Our files show that this information was  
10 reported to the police departments in every instance. We  
11 also knew that in certain instances the information, upon being  
12 received, was not being acted upon. We also disseminated  
13 simultaneously through letterhead memoranda to the Department  
14 of Justice the problem, and here, here we were, the FBI, in a  
15 position where we had no authority in the absence of instruction  
16 from the Department of Justice, to make an arrest.

17 Sections 241 and 242 don't cover it because you don't have  
18 evidence of a conspiracy, and it ultimately resulted in  
19 a situation where the Department called in United States  
20 Marshals who do have authority similar to local law enforcement  
21 officials.

22 So, historically, in those days, we were just as frus-  
23 trated as anyone else was, and when we got information from  
24 someone like Mr. Rowe, good information, reliable information,  
25 and it was passed on to those who had the responsibility to

1 do something about it, it was not always acted upon, as he  
2 indicated.

3 Senator Tower. None of these cases, then, there was  
4 adequate evidence of conspiracy to give you jurisdiction to  
5 act?

6 Mr. Adams. The Departmental rules at that time, and still  
7 require Departmental approval where you have a conspiracy.  
8 Under 241, it takes two or more persons acting together. You  
9 can have a mob scene, and you can have blacks and whites  
10 belting each other, but unless you can show that those that  
11 initiated the action acted in concert in a conspiracy, you have  
12 no violation.

13 Congress recognized this, and it wasn't until 1968  
14 that they came along and added Section 245 to the civil rights  
15 statute, which added punitive measures against an individual  
16 that didn't have to be a conspiracy. But this was a problem  
17 that the whole country was grappling with: the President of  
18 the United States, Attorney General. We were in a situation  
19 where we had rank lawlessness taking place, as you know from  
20 a memorandum we sent you that we sent to the Attorney General.  
21 The accomplishments we were able to obtain in preventing  
22 violence, and in neutralizing the Klan -- and that was one  
23 of the reasons.

24 Senator Tower. What was the Bureau's purpose in con-  
25 tinuing or urging the continued surveillance of the Vietnam

smn 23

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 Veterans Against the War?

2 Was there a legitimate law enforcement purpose, or was the  
3 intent to halt political expression?

4 Mr. Adams. We had information on the Vietnam Veterans  
5 Against the War that indicated that there were subversive  
6 groups involved. They were going to North Vietnam and meeting  
7 with the Communist forces. They were going to Paris, attending  
8 meetings paid for and sponsored by the Communist Party, the  
9 International Communist Party. We feel that we had a very valid  
10 basis to direct our attention to the VVAW.

11 It started out, of course, with Gus Hall in 1967, who was  
12 head of the Communist Party, USA, and the comments he made,  
13 and what it finally boiled down to was a situation where it  
14 split off into the Revolutionary Union, which was a Maoist  
15 group, and the hard-line Communist group, and at that point  
16 factionalism developed in many of the chapters, and they closed  
17 those chapters because there was no longer any intent to follow  
18 the national organization.

19 But we had a valid basis for investigating it, and we  
20 investigated chapters to determine if there was affiliation  
21 and subservience to the national office.

22 Senator Tower. Mr. Hart?

23 Senator Hart of Michigan. But in the process of chasing  
24 after the Veterans Against the War, you got a lot of information  
25 that clearly has no relationship to any Federal criminal

1 statute.

2 Mr. Adams. I agree, Senator.

3 Senator Hart of Michigan. Why don't you try to shut that  
4 stuff off by simply telling the agent, or your informant?

5 Mr. Adams. Here is the problem that you have with that.

6 When you're looking at an organization, do you report only the  
7 violent statements made by the group or do you also show that  
8 you may have one or two violent individuals, but you have  
9 some of these church groups that were mentioned, and others,  
10 that the whole intent of the group is not in violation of the  
11 statutes. You have to report the good, the favorable along  
12 with the unfavorable, and this is a problem. We wind up with  
13 information in our files. We are accused of being vacuum  
14 cleaners, and you are a vacuum cleaner. If you want to know the  
15 real purpose of an organization, do you only report the  
16 violent statements made and the fact that it is by a small  
17 minority, or do you also show the broad base of the organization  
18 and what it really is?

19 And within that is where we have to have the guidelines  
20 we have talked about before. We have to narrow down, because  
21 we recognize that we do wind up with too much information in  
22 our files.

23 Senator Hart of Michigan. But in that vacuuming process,  
24 you are feeding into Departmental files the names of people  
25 who are, who have been engaged in basic First Amendment

1 exercises, and this is what hangs some of us up.

2 Mr. Adams. It hangs me up. But in the same files I  
3 imagine every one of you has been interviewed by the FBI, either  
4 asking you about the qualifications of some other Senator  
5 being considered for a Presidential appointment, being inter-  
6 viewed concerning some friend who is applying for a job.

7 Were you embarrassed to have that in the files of the  
8 FBI?

9 Now, someone can say, as reported at our last session, that  
10 this is an indication, the mere fact that we have a name in our  
11 files has an onerous impression, a chilling effect. I agree.  
12 It can have, if someone wants to distort what we have in our  
13 files, but if they recognize that we interviewed you because  
14 of considering a man for the Supreme Court of the United  
15 States, and that isn't distorted or improperly used, I don't  
16 see where any harm is served by having that in our files.

17 Senator Hart of Michigan. But if I am Reverend Smith  
18 and the vacuum cleaner picked up the fact that I was helping  
19 the veterans, Vietnam Veterans Against the War, and two years  
20 later a name check is asked on Reverend Smith and all your  
21 file shows is that he was associated two years ago with a group  
22 that was sufficient enough, held sufficient doubtful patriotism  
23 to justify turning loose a lot of your energy in pursuit on  
24 them --

25 Mr. Adams. This is a problem.

1 Senator Hart of Michigan. This is what should require  
2 us to rethink this whole business.

3 Mr. Adams. Absolutely.

4 And this is what I hope the guidelines committees as well  
5 as the Congressional input are going to address themselves to.

6 Senator Hart of Michigan. We've talked about a wide range  
7 of groups which the Bureau can and has had informant penetration  
8 and report on. Your manual, the Bureau manual's definition  
9 of when an extremist or security investigation may be under-  
10 taken refers to groups whose activity either involves violation  
11 of certain specified laws, or which may result in the violation  
12 of such law, and when such an investigation is opened, then  
13 informants may be used.

14 Another guideline says that domestic intelligence  
15 investigations now must be predicated on criminal violations.  
16 The agent need only cite a statute suggesting an investigation  
17 relevant to a potential violation. Even now, with an improved,  
18 upgraded effort to avoid some of these problems, we are back  
19 again in a world of possible violations or activities which  
20 may result in illegal acts.

21 Now, any constitutionally protected exercise of the  
22 right to demonstrate, to assemble, to protest, to petition,  
23 conceivably may result in violence or disruption of a local  
24 town meeting, when a controversial social issue might result  
25 in disruption. It might be by hecklers rather than those holding

1 the meeting.

2 Does this mean that the Bureau should investigate all  
3 groups organizing or participating in such a meeting because  
4 they may result in violence, disruption?

5 Mr. Adams. No, sir.

6 Senator Hart of Michigan. Isn't that how you justify  
7 spying on almost every aspect of the peace movement?

8 Mr. Adams. No, sir. When we monitor demonstrations, we  
9 monitor demonstrations where we have an indication that the  
10 demonstration itself is sponsored by a group that we have an  
11 investigative interest in, a valid investigative interest in,  
12 or where members of one of these groups are participating where  
13 there is a potential that they might change the peaceful  
14 nature of the demonstration.

15 But this is our closest question of trying to draw  
16 guidelines to avoid getting into an area of infringing on the  
17 First Amendment rights of people, yet at the same time being  
18 aware of groups such as we have had in greater numbers in the  
19 past than we do at the present time. But we have had periods  
20 where the demonstrations have been rather severe, and the  
21 courts have said that the FBI has a right, and indeed a duty,  
22 to keep itself informed with respect to the possible commission  
23 of crime. It is not obliged to wear blinders until it may be  
24 too late for prevention.

25 And that's a good statement if applied in a clearcut

Phone (Area 202) 544-5000

end 5

1 case. Our problem is where we have a demonstration and we have  
2 to make a judgment call as to whether it is one that clearly  
3 fits the criteria of enabling us to monitor the activities, and  
4 that's where I think most of our disagreements fall.

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 Senator Hart of Michigan. Let's assume that the rule  
2 for opening an investigation on a group is narrowly drawn. The  
3 Bureau manual states that informants investigating a subversive  
4 organization should not only report on what that group is  
5 doing but should look at and report on activities in which  
6 the group is participating.

7 There is a Section 87B3 dealing with reporting on  
8 connections with other groups. That section says that the  
9 field office shall "determine and report on any significant  
10 connection or cooperation with non-subversive groups." Any  
11 significant connection or cooperation with non-subversive  
12 groups.

13 Now let's look at this in practice. In the spring of  
14 1969 there was a rather heated national debate over the  
15 installation of the anti-ballistic missile system. Some of us  
16 remember that. An FBI informant and two FBI confidential  
17 sources reported on the plan's participants and activities  
18 of the Washington Area Citizens Coalition Against the ABM,  
19 particularly in open public debate in a high school auditorium,  
20 which included speakers from the Defense Department for the  
21 ABM and a scientist and defense analyst against the ABM.

22 The informants reported on the planning for the meeting,  
23 the distribution of materials to churches and schools,  
24 participation by local clergy, plans to seek resolution on the  
25 ABM from nearby town councils. There was also information on

1 plans for a subsequent town meeting in Washington with the  
2 names of local political leaders who would attend.

3 Now the information, the informant information came as  
4 part of an investigation of an allegedly subversive group  
5 participating in that coalition. Yet the information dealt  
6 with all aspects and all participants. The reports on the  
7 plans for the meeting and on the meeting itself were disseminated  
8 to the State Department, to military intelligence, and to the  
9 White House.

10 How do we get into all of that?

11 Mr. Adams. Well --

12 Senator Hart of Michigan. Or if you were to rerun it,  
13 would you do it again?

14 Mr. Adams. Well, not in 1975, compared to what 1969  
15 was. The problem we had at the time was where we had an  
16 informant who had reported that this group, this meeting was  
17 going to take place and it was going to be the Daily World,  
18 which was the east coast communist newspaper that made comments  
19 about it. They formed an organizational meeting. We took  
20 a quick look at it. The case apparently was opened in May 28,  
21 1969 and closed June 5 saying there was no problem with this  
22 organization.

23 Now the problem we get into is if we take a quick look  
24 and get out, fine. We've had cases, though, where we have  
25 stayed in too long. When you're dealing with security it is like

1 Soviet espionage where they can put one person in this country  
2 and they supported him with total resources of the Soviet  
3 Union, false identification, all the money he needs, communi-  
4 cations networks, satellite assistance, and everything, and  
5 you're working with a paucity of information.

6 The same problem exists to a certain extent in domestic  
7 security. You don't have a lot of black and white situations.  
8 So someone reports something to you which you feel, you take  
9 a quick look at and there's nothing to it, and I think that's  
10 what they did.

11 Senator Hart of Michigan. You said that was '69. Let  
12 me bring you up to date, closer to current, a current place  
13 on the calendar.

14 This one is the fall of last year, 1975. President  
15 Ford announced his new program with respect to amnesty, as  
16 he described it, for draft resisters. Following that there  
17 were several national conferences involving all the groups  
18 and individuals interested in unconditional amnesty.

19 Now parenthetically, while unconditional amnesty is  
20 not against -- while unconditional amnesty is not yet the law,  
21 we agreed that advocating it is not against the law either.

22 Mr. Adams. That's right.

23 Senator Hart of Michigan. Some of the sponsors were  
24 umbrella organizations involving about 50 diverse groups around  
25 the country. FBI informants provided advance information on

1 plans for the meeting and apparently attended and reported on  
2 the conference. The Bureau's own reports described the  
3 participants as having represented diverse perspectives on  
4 the issue of amnesty, including civil liberties and human  
5 rights groups, G.I. rights spokesmen, parents of men killed  
6 in Vietnam, wives of ex-patriates in Canada, experts on draft  
7 counselling, religious groups interested in peace issues,  
8 delegates from student organizations, and aides of House and  
9 Senate members, drafting legislation on amnesty.

10 The informant apparently was attending in his role as  
11 a member of a group under investigation as allegedly subversive  
12 and it described the topics of the workshop.

13 Ironically, the Bureau office report before them noted  
14 that in view of the location of the conference at a theological  
15 seminary, the FBI would use restraint and limit its coverage  
16 to informant reports.

17 Now this isn't five or ten years ago. This is last  
18 fall. And this is a conference of people who have the point  
19 of view that I share, that the sooner we have unconditional  
20 amnesty, the better for the soul of the country.

21 Now what reason is it for a vacuum cleaner approach on  
22 a thing like that? Don't these instances illustrate how broad  
23 informant intelligence really is, that would cause these groups  
24 in that setting having contact with other groups, all and  
25 everybody is drawn into the vacuum and many names go into the

1 Bureau files.

2 Is this what we want?

3 Mr. Adams. I'll let Mr. Wannall address himself to this.  
4 He is particular knowledgeable as to this operation.

5 Mr. Wannall. Senator Hart, that was a case that was  
6 opened on November 14 and closed November 20, and the information  
7 which caused us to be interested in it were really two particular  
8 items. One was that a member of the steering committee there,  
9 was a three man steering committee, and one of those members  
10 of the national conference was in fact a national officer  
11 of the VVAW in whom we had suggested before we did have a  
12 legitimate investigative interest.

13 Senator Hart of Michigan. Well, I would almost say so what  
14 at that point.

15 Mr. Wannall. The second report we had was that the  
16 VVAW would actively participate in an attempt to pack the  
17 conference to take it over. And the third report we had --

18 Senator Hart of Michigan. And incidentally, all of the  
19 information that your Buffalo informant had given you with  
20 respect to the goals and aims of the VVAW gave you a list of  
21 goals which were completely within Constitutionally protected  
22 objectives. There wasn't a single item out of that VVAW that  
23 jeopardizes the security of this country at all.

24 Mr. Wannall. Well, of course, we did not rely entirely  
25 on the Buffalo informant, but even there we did. recei...

1 from that informant information which I considered to be  
2 significant.

3 The Buffalo chapter of the VVAW was the regional office  
4 covering New York and northern New Jersey. It was one of the  
5 five most active VVAW chapters in the country and at a  
6 national conference, or at the regional conference, this  
7 informant reported information back to us that an attendee  
8 at the conference announced that he had run guns into Cuba  
9 prior to the Castro take-over. He himself said that he during  
10 the Cuban crisis had been under 24 hour surveillance. There  
11 was also discussion at the conference of subjugating the  
12 VVAW to the revolutionary union. There were some individuals  
13 in the chapter or the regional conference who were not in  
14 agreement with us, but Mr. Adams has addressed himself to the  
15 interest of the revolutionary union.

16 So all of the information that we had on the VVAW did  
17 not come from that source but even that particular source did  
18 give us information which we considered to be of some  
19 significance in our appraisal of the need for continuing the  
20 investigation of that particular chapter of the VVAW.

21 Senator Hart of Michigan. But does it give you the  
22 right or does it create the need to go to a conference, even  
23 if it is a conference that might be taken over by the VVAW  
24 when the subject matter is how and by what means shall we  
25 seek to achieve unconditional amnesty? What threat?

1 Mr. Wannall. Our interest, of course, was the VVAW  
2 influence on a particular meeting, if you ever happened to be  
3 holding a meeting, or whatever subject it was.

4 Senator Hart of Michigan. What if it was a meeting to  
5 seek to make more effective the food stamp system in this  
6 country?

7 Mr. Wannall. Well, of course there had been some  
8 organizations.

9 Senator Hart of Michigan. Would the same logic follow?

10 Mr. Wannall. I think that if we found that if the  
11 Communist Party USA was going to take over the meeting and  
12 use it as a front for its own purposes, there would be a logic  
13 in doing that. You have a whole scope here and it's a matter  
14 of where you do and where you don't, and hopefully, as we've  
15 said before, we will have some guidance, not only from this  
16 committee but from the guidelines that are being developed.  
17 But within the rationale of what we're doing today, I was  
18 explaining to you our interest not in going to this thing and  
19 not gathering everything there was about it.

20 In fact, only one individual attended and reported to us,  
21 and that was the person who had, who was not developed for  
22 this reason; an informant who had been reporting on other  
23 matters for some period of time.

24 And as soon as we got the report of the outcome of the  
25 meeting and the fact that in the period of some six days, we

1 discontinued any further interest.

2 Senator Hart of Michigan. Well, my time has expired  
3 but even this brief exchange, I think, indicates that if we  
4 really want to control the dangers to our society of using  
5 informants to gather domestic political intelligence, we have  
6 to restrict sharply domestic intelligence investigations. And  
7 that gets us into what I would like to raise with you when  
8 my turn comes around again, and that's the use of warrants,  
9 obliging the Bureau to obtain a warrant before a full-fledged  
10 informant can be directed by the Bureau against a group or  
11 individuals.

12 I know you have objections to that and I would like to  
13 review that with you.

14 Senator Mondale. pursue that question.

15 Senator Hart of Michigan. I am talking now about an  
16 obligation to obtain a warrant before you turn loose a full-  
17 fledged informant. I'm not talking about tipsters that run  
18 into you or you run into, or who walk in as information sources.  
19 The Bureau has raised some objections in this memorandum to the  
20 Committee. The Bureau argues that such a warrant requirement  
21 might be unconstitutional because it would violate the First  
22 Amendment rights of FBI informants to communicate with their  
23 government.

24 Now that's a concern for First Amendment rights that  
25 ought to hearten all the civil libertarians.

1 But why would that vary, why would a warrant requirement  
2 raise a serious constitutional question?

3 Mr. Adams. Well, for one thing it's the practicability  
4 of it or the impactability of getting a warrant which  
5 ordinarily involves probable cause to show that a crime has  
6 been or is about to be committed.

7 In the intelligence field we are not dealing necessarily  
8 with an imminent criminal action. We're dealing with activities  
9 such as with the Socialist Workers Party, which we have  
10 discussed before, where they say publicly we're not to engage  
11 in any violent activity today, but we guarantee you we still  
12 subscribe to the tenets of communism and that when the time  
13 is ripe, we're going to rise up and help overthrow the United  
14 States.

15 Well, now, you can't show probable cause if they're about  
16 to do it because they're telling you they're not going to do it  
17 and you know they're not going to do it at this particular  
18 moment.

19 It's just the mixture somewhat of trying to mix in a  
20 criminal procedure with an intelligence gathering function, and  
21 we can't find any practical way of doing it. We have a particular  
22 organization. We may have an informant that not only belongs  
23 to the Communist Party, but belongs to several other organizations  
24 and as part of his function he may be sent out by the Communist  
25 Party to try to infiltrate one of these clean organizations.

1 We don't have probable cause for him to target against  
2 that organization, but yet we should be able to receive informa-  
3 tion from him that he as a Communist Party member, even  
4 though in an informant status, is going to that organization  
5 and don't worry about it. We're making no headway on it.  
6 It's just from our standpoint the possibility of informants,  
7 the Supreme Court has held that informants per se do not  
8 violate the First, Fourth, or Fifth Amendments. They have  
9 recognized the necessity that the government has to have  
10 individuals who will assist them in carrying out their  
11 governmental duties.

12 Senator Hart of Michigan. I'm not sure I've heard anything  
13 yet in response to the constitutional question, the very  
14 practical question that you addressed.

15 Quickly, you are right that the court has said that the  
16 use of the informant per se is not a violation of constitutional  
17 rights of the subject under investigation. But Congress  
18 can prescribe some safeguards, some rules and some standards,  
19 just as we have with respect to your use of electronic  
20 surveillance, and could do it with respect to informants.

21 That's quite different from saying that the warrant  
22 procedure itself would be unconstitutional.

23 But with respect to the fact that you couldn't show  
24 probable cause, and therefore, you couldn't get a warrant,  
25 therefore you oppose the proposal to require you to get a

1 warrant. It seems to beg the question.

2 Assuming that you say that since we use informants and  
3 investigate groups which may only engage in lawful activities  
4 but which might engage in activities that can result in  
5 violence or illegal acts, and you can't use the warrant, but  
6 Congress could say that the use of informants is subject to  
7 such abuse and poses such a threat to legitimate activity,  
8 including the willingness of people to assemble and discuss  
9 the anti-ballistic missile system, and we don't want you to  
10 use them unless you have indication of criminal activity or  
11 unless you present your request to a magistrate in the same  
12 fashion as you are required to do with respect to, in most  
13 cases, to wiretap.

14 End Tape 6 This is an option available to Congress.

15 Begin Tape 7 Senator Tower. Senator Schweiker.

16 Senator Schweiker. Thank you very much.

17 Mr. Wannall, what's the difference between a potential  
18 security informant and a security informant?

19 Mr. Wannall. I mentioned earlier, Senator Schweiker,  
20 that in developing an informant we do a preliminary check on  
21 him before talking with him and then we do a further in-depth  
22 background check.

23 A potential security informant is someone who is under  
24 consideration before he is approved by headquarters for use as  
25 an informant. He is someone who is under current consideration.

1 On some occasions that person will have been developed to a  
2 point where he is in fact furnishing information and we are  
3 engaged in checking upon his reliability.

4 In some instances he may be paid for information furnished,  
5 but it has not gotten to the point yet where we have satisfied  
6 ourselves that he meets all of our criteria. When he does,  
7 the field must submit its recommendations to headquarters, and  
8 headquarters will pass upon whether that individual is an  
9 approved FBI informant.

10 Senator Schweiker. So it's really the first step of  
11 being an informant, I guess.

12 Mr. Wannall. It is a preliminary step, one of the  
13 preliminary steps.

14 Senator Schweiker. In the Rowe case, in the Rowe  
15 testimony that we just heard, what was the rationale again  
16 for not intervening when violence was known?

17 I know we asked you several times but I'm still having  
18 trouble understanding what the rationale, Mr. Wannall, was  
19 in not intervening in the Rowe situation when violence was  
20 known.

21 Mr. Wannall. Senator Schweiker, Mr. Adams did address  
22 himself to that. If you have no objection, I'll ask him to  
23 answer that.

24 Senator Schweiker. All right.

25 Mr. Adams. The problem we had at the time, and it's the

1 problem today, we are an investigative agency. We do not  
2 have police powers like the United States marshalls do.  
3 About 1795, I guess, or some period like that, marshalls have  
4 had the authority that almost borders on what a sheriff has.  
5 We are the investigative agency of the Department of Justice  
6 and during these times the Department of Justice had us maintain  
7 the role of an investigative agency. We were to report on  
8 activities to furnish the information to the local police,  
9 who had an obligation to act. We furnished it to the Department  
10 of Justice.

11 In those areas where the local police did not act, it  
12 resulted finally in the Attorney General sending 500 United  
13 States marshalls down to guarantee the safety of people who  
14 were trying to march in protest of their civil rights.

15 This was an extraordinary measure because it came at a  
16 time of civil rights versus federal rights, and yet there was  
17 a breakdown in law enforcement in certain areas of the country.

18 This doesn't mean to indict all law enforcement agencies  
19 in itself at the time either because many of them did act  
20 upon the information that was furnished to them. But we  
21 have no authority to make an arrest on the spot because we  
22 would not have had evidence that there was a conspiracy  
23 available. We can do absolutely nothing in that regard.

24 In Little Rock, the decision was made, for instance, that  
25 if any arrests need to be made, the Army should make them and

1 next to the Army, the United States marshalls should make them,  
2 not the FBI, even though we developed the violations.  
3 And over the years, as you know, at the time there were many  
4 questions raised. Why doesn't the FBI stop this? Why don't  
5 you do something about it?

6 Well, we took the other route and effectively destroyed  
7 the Klan as far as committing acts of violence, and of course  
8 we exceeded statutory guidelines in that area.

9 Senator Schweiker. What would be wrong, just following  
10 up your point there, Mr. Adams, with setting up a program,  
11 since it's obvious to me that a lot of informers are going to  
12 have pre-knowledge of violence of using U.S. marshalls on some  
13 kind of a long-range basis to prevent violence?

14 Mr. Adams. We do. We have them in Boston in connection  
15 with the busing incident. We are investigating the violations  
16 under the Civil Rights Act. But the marshalls are in Boston,  
17 they are in Louisville, I believe at the same time, and this  
18 is the approach, that the Federal government finally recognized,  
19 was the solution to the problem where you had to have added  
20 Federal import.

21 Senator Schweiker. But instead of waiting until it  
22 gets to a Boston state, which is obviously a pretty advanced  
23 confrontation, shouldn't we have somewhere a coordinated program  
24 that when you go up the ladder of command in the FBI, that  
25 on an immediate and fairly contemporary basis, that kind of

1 help can be sought instantly as opposed to waiting until it  
2 gets to a Boston state?

3 I realize it's a departure from the past. I'm not  
4 saying it isn't. But it seems to me we need a better remedy  
5 than we have.

6 Mr. Adams. Well, fortunately, we're at a time where  
7 conditions have subsided in the country, even from the '60s  
8 and the '70s and periods -- or '50s and '60s. We report to the  
9 Department of Justice on potential troublespots around the  
10 country as we learn of them so that the Department will be  
11 aware of them. The planning for Boston, for instance, took  
12 place a year in advance with state officials, city officials,  
13 the Department of Justice and the FBI sitting down together  
14 saying, how are we going to protect the situation in Boston?

15 I think we've learned a lot from the days back in the  
16 early '60s. But the government had no mechanics which protected  
17 people at that time.

18 Senator Schweiker. I'd like to go, if I may, to the  
19 Robert Hardy case. I know he is not a witness but he  
20 was a witness before the House. But since this affects my  
21 state, I'd like to ask Mr. Wannall. Mr. Hardy, of course, was  
22 the FBI informer who ultimately led and planned and organized  
23 a raid on the Camden draft board. And according to Mr. Hardy's  
24 testimony before our Committee, he said that in advance of the  
25 raid someone in the Department had even acknowledged the fact

1 that they had all the information they needed to clamp down  
2 on the conspiracy and could arrest people at that point in time,  
3 and yet no arrests were made.

4 Why, Mr. Wannall, was this true?

5 Mr. Wannall. Well, I can answer that based only on the  
6 material that I have reviewed, Senator Schweiker. It was not  
7 a case handled in my division but I think I can answer your  
8 question.

9 There was, in fact, a representative of the Department  
10 of Justice on the spot counselling and advising continuously  
11 as that case progressed as to what point the arrest should be  
12 made and we were being guided by those to our mentors, the  
13 ones who are responsible for making decisions of that sort.

14 So I think that Mr. Hardy's statement to the effect that  
15 there was someone in the Department there is perfectly true.

16 Senator Schweiker. That responsibility rests with who  
17 under your procedures?

18 Mr. Wannall. We investigate decisions on making arrests,  
19 when they should be made, and decisions with regard to  
20 prosecutions are made either by the United States attorneys  
21 or by Federals in the Department.

22 Mr. Adams. At this time that particular case did have  
23 a departmental attorney on the scene because there are questions  
24 of conspiracy. Conspiracy is a tough violation to prove and  
25 sometimes a question of do you have the added value of catching

1 someone in the commission of the crime as further proof,  
2 rather than relying on one informant and some circumstantial  
3 evidence to prove the violation.

4 Senator Schweiker. Well, in this case, though, they  
5 even had a dry run. They could have arrested them on the  
6 dry run.

7 That's getting pretty close to conspiracy, it seems to  
8 me. They had a dry run and they could have arrested them on  
9 the dry run.

10 I'd like to know why they didn't arrest them on the dry  
11 run. Who was this Department of Justice official who made  
12 that decision?

13 Mr. Adams. Guy Goodwin was the Department official.

14 Senator Schweiker. Next I'd like to ask back in 1965,  
15 during the height of the effort to destroy the Klan, as you  
16 put it a few moments ago, I believe the FBI has released  
17 figures that we had something like 2,000 informers of some  
18 kind or another infiltrating the Klan out of roughly 10,000  
19 estimated membership.

20 I believe these are either FBI figures or estimates.  
21 That would mean that one out of every five members of the Klan  
22 at that point was an informant paid by the government.

23 And I believe the figure goes on to indicate that 70  
24 percent of the new members of the Klan that year were FBI  
25 informants.

1           Isn't this an awfully overwhelming quantity of people  
2 to put in an effort such as that? I'm not criticizing that  
3 you shouldn't have informants in the Klan and know what's  
4 going on for violence, but it seems to me that this is the  
5 tail wagging the dog.

6           For example, today we supposedly have only 1594 total  
7 informants for both domestic informants and potential informants  
8 and that here we had 2,000 just in the Klan alone.

9           Mr. Adams. Well, this number 2,000 did include all  
10 racial matters, informants at that particular time, and I  
11 think the figures we tried to reconstruct as to the actual  
12 number of Klan informants in relation to Klan members was around  
13 6 percent, I think, after we had read some of the testimony.

14           Now the problem we had on the Klan is the Klan had a  
15 group called the Action Group. This was the group that you  
16 remember from Mr. Rowe's testimony, that he was left af-  
17 ter the meeting. He attended the open meetings and heard  
18 all of the hurrahs and this type of thing from information,  
19 but he never knew what was going on because each one had an  
20 action group that went out and considered themselves in the  
21 missionary field.

22           Theirs was the violence.

23           In order to penetrate those, it takes, you have to direct  
24 as many informants as you possibly can against it. Bear in  
25 mind that I think the newspapers, the President and Congress and

1 everyone is concerned about the murder of the civil rights  
2 workers, the Linio Kent case, the Viola Liuzzo case, the  
3 bombings of the church in Birmingham. We were faced with one  
4 tremendous problem at that time.

5 Senator Schweiker. I acknowledge that.

6 Mr. Adams. Our only approach was through informants  
7 and through the use of informants we solved these cases, the  
8 ones that were solved. Some of the bombing cases we have  
9 never solved. They are extremely difficult.

10 These informants, as we told the Attorney General, and  
11 as we told the President, that we had moved informants like  
12 Mr. Rowe up to the top leadership. He was the bodyguard to the  
13 head man. He was in a position where he could forewarn us  
14 of violence, could help us on cases that had transpired, and  
15 yet we knew and conceived that this could continue forever  
16 unless we can create enough disruption that these members will  
17 realize that if I go out and murder three civil rights workers,  
18 even though the sheriff and other law enforcement officers are  
19 in on it, if that were the case and with some of them it was  
20 the case, that I would be caught. And that's what we did and  
21 that's why violence stopped, was because the Klan was insecure  
22 and just like you say, 20 percent, they thought 50 percent of  
23 their members ultimately were Klan members and they didn't  
24 dare engage in these acts of violence because they knew they  
25 couldn't control the conspiracy any longer.

1 Senator Schweiker. My time is expired. I just have  
2 one quick question..

3 Is it correct that in 1971 we're using around 6500  
4 informers for black ghetto situations?

5 Mr. Adams. I'm not sure if that's the year. We did  
6 have one year where we had a number like that which probably  
7 had been around 6000, and that was the time when the cities  
8 were being burned, Detroit, Washington, areas like this. We  
9 were given a mandate to know what the situation is, where is  
10 violence going to break out, what next?

11 They weren't informants like an individual penetrating  
12 an organization. They were listening posts in the community  
13 that would help tell us that we have a group here that's getting  
14 ready to start another fire-fight or something.

15 Senator Tower. At this point, there are three more  
16 Senators remaining for questioning. If we can try to get  
17 everything in in the first round, we will not have a second  
18 round and I think we can finish around 1:00, and we can go  
19 on and terminate the proceedings.

20 However, If anyone feels that they have another question  
21 that they want to return to, we can come back here by 2:00.

22 Senator Mondale?

23 Senator Mondale. Mr. Adams, it seems to me that the  
24 record is now fairly clear that when the FBI operates in the  
25 field of crime investigating, it may be the best professional

1 organization of its kind in the world. And when the FBI acts  
2 in the field of political ideas, it has bungled its job, it  
3 has interfered with the civil liberties, and finally, in the  
4 last month or two, through its public disclosures, heaped  
5 shame upon itself and really led toward an undermining of  
6 the crucial public confidence in an essential law enforcement  
7 agency of this country.

8 In a real sense, history has repeated itself because it  
9 was precisely that problem that led to the creation of the FBI  
10 in 1924.

11 In World War I, the Bureau of Investigation strayed from  
12 its law enforcement functions and became an arbiter and  
13 protector of political ideas. And through the interference  
14 of civil liberties and Palmer Raids and the rest, the public  
15 became so offended that later through Mr. Justice Stone and  
16 Mr. Hoover, the FBI was created. And the first statement  
17 by Mr. Stone was that never again will this Justice Department  
18 get involved in political ideas.

19 And yet here we are again looking at a record where with  
20 Martin Luther King, with anti-war resistors, with -- we even  
21 had testimony this morning of meetings with the Council of  
22 Churches. Secretly we are investigating this vague, ill-defined,  
23 impossible to define idea of investigating dangerous ideas.

24 It seems to be the basis of the strategy that people  
25 can't protect themselves, that you somehow need to use the

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 tools of law enforcement to protect people from subversive  
2 or dangerous ideas, which I find strange and quite profoundly  
3 at odds with the philosophy of American government.

4 I started in politics years ago and the first thing we  
5 had to do was to get the communists out of our parts and out  
6 of the union. We did a very fine job. As far as I know, and  
7 I'm beginning to wonder, but as far as I know, we had no help  
8 from the FBI or the CIA. We just rammed them out of the meetings  
9 on the grounds that they weren't Democrats and they weren't  
10 good union leaders when we didn't want anything to do with them.  
11 And yet, we see time and time again that we're going to  
12 protect the blacks from Martin Luther King because he's  
13 dangerous, that we've going to protect veterans from whatever  
14 it is, and we're going to protect the Council of Churches  
15 from the veterans, and so on, and it just gets so gummy and  
16 confused and ill-defined and dangerous, that don't you agree  
17 with me that we have to control this, to restrain it, so that  
18 precisely what is expected of the FBI is known by you, by the  
19 public, and that you can justify your actions when we ask  
20 you?

21 Mr. Adams. I agree with that, Senator, and I would like  
22 to point out that when the Attorney General made his statement  
23 Mr. Hoover subscribes to it, we followed that policy for about  
24 ten years until the President of the United States said that  
25 we should investigate the Nazi Party.

1 I for one feel that we should investigate the Nazi Party.  
2 I feel that our investigation of the Nazi Party resulted in  
3 the fact that in World War II, as contrasted with World War I,  
4 there wasn't one single incident of foreign directed sabotage  
5 which took place in the United States.

6 Senator Mondale. And under the criminal law you could  
7 have investigated these issues of sabotage.

8 Isn't sabotage a crime?

9 Mr. Adams. Sabotage is a crime.

10 Senator Mondale. Could you have investigated that?

11 Mr. Adams. After it happened.

12 Senator Mondale. You see, every time we get involved  
13 in political ideas, you defend yourself on the basis of  
14 crimes that could have been committed. It's very interesting.

15 In my opinion, you have to stand here if you're going to  
16 continue what you're now doing and as I understand it, you  
17 still insist that you did the right thing with the Vietnam  
18 Veterans Against the War, and investigating the Council of  
19 Churches, and this can still go on. This can still go on under  
20 your interpretation of your present powers, what you try to  
21 justify on the grounds of your law enforcement activities  
22 in terms of criminal matters.

23 Mr. Adams. The law does not say we have to wait until  
24 we have been murdered before we can --

25 Senator Mondale. Absolutely, but that's the field of

1 law again. You're trying to defend apples with oranges. That's  
2 the law. You can do that.

3 Mr. Adams. That's right, but how do you find out which  
4 of the 20,000 Bund members might have been a saboteur. You  
5 don't have probable cause to investigate anyone, but you can  
6 direct an intelligence operation against the German-American  
7 Bund, the same thing we did after Congress said --

8 Senator Mondale. Couldn't you get a warrant for that?  
9 Why did you object to going to court for authority for that?

10 Mr. Adams. Because we don't have probable cause to  
11 go against an individual and the law doesn't provide for  
12 probable cause to investigate an organization.

13 There were activities which did take place, like one time  
14 they outlined the Communist Party --

15 Senator Mondale. What I don't understand is why it  
16 wouldn't be better for the FBI for us to define authority  
17 that you could use in the kind of Bonn situation where under  
18 court authority you can investigate where there is probable  
19 cause or reasonable cause to suspect sabotage and the rest.

20 Wouldn't that make a lot more sense than just making these  
21 decisions on your own?

22 Mr. Adams. We have expressed complete concurrence in  
23 that. We feel that we're going to go beat to death in the  
24 next 100 years, you're damned if you do, and damned if you  
25 don't if we don't have a delineation of our responsibility

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 in this area. But I won't agree with you, Senator, that we  
2 have bungled the intelligence operations in the United States.  
3 I agree with you that we have made some mistakes. Mr. Kelley  
4 has set a pattern of being as forthright as any Director of the  
5 FBI in acknowledging mistakes that had been made, but I think  
6 that as you said, and I believe Senator Tower said, and  
7 Senator Church, that we have to watch these hearings because  
8 of the necessity that we must concentrate on these areas of  
9 abuse. We must not lose sight of the  
10 overall law enforcement and intelligence community, and I  
11 still feel that this is the freest country in the world.  
12 I've travelled much, as I'm sure you have, and I know we have  
13 made some mistakes, but I feel that the people in the United  
14 States are less chilled by the mistakes we have made than they  
15 are by the fact that there are 20,000 murders a year in the  
16 United States and they can't walk out of their houses at night  
17 and feel safe.

18 Senator Mondale. That's correct, and isn't that an  
19 argument then, Mr. Adams, for strengthening our powers to go  
20 after those who commit crimes rather than strengthening or  
21 continuing a policy which we now see undermines the public  
22 confidence you need to do your job.

23 Mr. Adams. Absolutely. The mistakes we have made are  
24 what have brought on this embarrassment to us.

25 I'm not blaming the Committee. I'm saying we made some

Phone (Area 202) 544-6000

1 mistakes and in doing so this is what has hurt the FBI. But  
2 at the same time I don't feel that a balanced picture comes  
3 out, as you have said yourselves, because of the necessity  
4 of zeroing in on abuses.

5 I think that we have done one tremendous job. I think  
6 the accomplishments in the Klan was the finest hour of the  
7 FBI and yet, I'm sure in dealing with the Klan that we made  
8 some mistakes. But I just don't agree with bungling.

End Tape 7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 Senator Mondale. I don't want to argue over terms, but  
2 I think I sense an agreement that the FBI has gotten into trouble  
3 over it in the political idea trouble, and that that's where we  
4 need to have new legal standards.

5 Mr. Adams. Yes, I agree with that.

6 Senator Tower. Senator Huddleston.

7 Senator Huddleston. Thank you, Mr. Chairman.

8 Mr. Adams, these two instances we have studied at some  
9 length seems to have been an inclination on the part of  
10 the Bureau to establish a notion about an individual or a group  
11 which seems to be very hard to ever change or dislodge. In  
12 the case of Dr. King, where the supposition was that he was  
13 being influenced by Communist individuals, extensive investi-  
14 gation was made, surveillance, reports came back indicating that  
15 this in fact was untrue, and directions continued to go out  
16 to intensify the investigation. There never seemed to be a  
17 willingness on the part of the Bureau to accept its own facts.

18 Ms. Cook testified this morning that something similar  
19 to that happened with the Vietnam Veterans Against the War, that  
20 every piece of information that she supplied to the Bureau  
21 seemed to indicate that the Bureau was not correct in its  
22 assumption that this organization planned to commit violence,  
23 or that it was being manipulated, and yet you seemed to insist  
24 that this investigation go on, and this information was used  
25 against the individuals.

1 Now, are there instances where the Bureau has admitted that  
2 its first assumptions were wrong and they have changed their  
3 course?

4 Mr. Adams: We have admitted that. We have also shown  
5 from one of the cases that Senator Hart brought up, that after  
6 five days we closed the case. We were told something by an  
7 individual that there was a concern of an adverse influence  
8 in it, and we looked into it. On the Martin Luther King  
9 situation there was no testimony to the effect that we just  
10 dragged on and on, or admitted that we dragged on and on and  
11 on, ad infinitum. The wiretaps on Martin Luther King were  
12 all approved by the Attorney General. Microphones on Martin  
13 Luther King were approved by another Attorney General. This  
14 wasn't the FBI, and the reason they were approved was that  
15 there was a basis to continue the investigation up to a point.

16 What I testified to was that we were improper in discrediting  
17 Dr. King, but it's just like --

18 Senator Huddleston. The Committee has before it memoranda  
19 written by high officials of the Bureau indicating that the  
20 information they were receiving from the field, from these  
21 surveillance methods, did not confirm what their supposition  
22 was.

23 Mr. Adams. That memorandum was not on Dr. King. That  
24 was on another individual that I think somehow got mixed up  
25 in the discussion, one where the issue was can we make people

1 prove they aren't a Communist before we will agree not to  
2 investigate them.

3 But the young lady appearing this morning making the  
4 comment that she never knew of anything she told us that  
5 she considers herself a true member of the VVAW-WSO inasmuch  
6 as she feels in general agreement of the principles of it, and  
7 agreed to cooperate with the FBI in providing information regard-  
8 ing the organization to aid in preventing violent individuals  
9 from associating themselves with the VVAW-WSO. She is most  
10 concerned about efforts by the Revolutionary Union to take over  
11 the VVAW-WSO, and she is working actively to prevent this..

12 I think that we have a basis for investigating the VVAW-  
13 WSO in certain areas today. In other areas we have stopped  
14 the investigation. They don't agree with these principles  
15 laid down by the --

16 Senator Huddleston. That report was the basis of your  
17 continuing to pay informants and continuing to utilize that  
18 information against members who certainly had not been involved  
19 in violence, and apparently to get them fired from their job  
20 or whatever?

21 Mr. Adams. It all gets back to the fact that even in the  
22 criminal law field, you have to detect crime, and you have to  
23 prevent crime, and you can't wait until something happens.. The  
24 Attorney General has clearly spoken in that area, and even our  
25 statutory jurisdiction provides that we don't --

smn 4

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 Senator Huddleston. Well, of course we've had considerable  
2 evidence this morning where no attempt was made to prevent  
3 crime, when you had information that it was going to occur.  
4 But I'm sure there are instances where you have.

5 Mr. Adams. We disseminated every single item which he  
6 reported to us.

7 Senator Huddleston. To a police department which you  
8 knew was an accomplice to the crime.

9 Mr. Adams. Not necessarily.

10 Senator Huddleston. Your informant had told you that,  
11 hadn't he?

12 Mr. Adams. Well, the informant is on one level. We have  
13 other informants, and we have other information.

14 Senator Huddleston. Yes, but you were aware that he  
15 had worked with certain members of the Birmingham police in  
16 order to --

17 Mr. Adams. Yes. He furnished many other instances also.

18 Senator Huddleston. So you weren't really doing a whole  
19 lot to prevent that incident by telling the people who were  
20 already part of it.

21 Mr. Adams. We were doing everything we could lawfully  
22 do at the time, and finally the situation was corrected, so that  
23 when the Department, agreeing that we had no further juris-  
24 diction, could sent the United States Marshal down to perform  
25 certain law enforcement functions.

1 Senator Huddleston. Now, the Committee has received  
2 documents which indicated that in one situation the FBI assisted  
3 an informant who had been established in a white hate group  
4 to establish a rival white hate group, and that the Bureau paid  
5 his expenses in setting up this rival organization.

6 Now, does this not put the Bureau in a position of being  
7 responsible for what actions the rival white hate group might  
8 have undertaken?

9 Mr. Adams. I'd like to see if one of the other gentlemen  
10 knows that specific case, because I don't think we set up a  
11 specific group.

12 This is Joe Deegan.

13 Mr. Deegan. Senator, it's my understanding that the  
14 informant we're talking about decided to break off from the  
15 group he was with. He was with the Macon Klan group of  
16 the United Klans of America, and he decided to break off. This  
17 was in compliance with our regulations. His breaking off,  
18 we did not pay him to set up the organization. He did it  
19 on his own. We paid him for the information he furnished  
20 us concerning the operation. We did not sponsor the organiza-  
21 tion.

22 Senator Huddleston. Concerning the new organization that  
23 he set up, he continued to advise you of the activities of that  
24 organization?

25 Mr. Deegan. He continued to advise us of that organization

smn. 6

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 and other organizations. He would advise us of planned  
2 activities.

3 Senator Huddleston. The new organization that he formed,  
4 did it operate in a very similar manner to the previous one?

5 Mr. Deegan. No, it did not, and it did not last that  
6 long..

7 Senator Huddleston. There's also evidence of an FBI  
8 informant in the Black Panther Party who had a position of  
9 responsibility within the Party with the knowledge of his  
10 FBI contact of supplying members with weapons and instructing  
11 them in how to use those weapons. Presumably this was in the  
12 knowledge of the Bureau, and he later became -- came in contact  
13 with the group that was contracting for murder, and he partici-  
14 pated in this group with the knowledge of the FBI agent, and  
15 this group did in fact stalk a victim who was later killed with  
16 the weapon supplied by this individual, presumably all in the  
17 knowledge of the FBI.

18 How does this square with your enforcement and crime  
19 prevention responsibilities.

20 Mr. Deegan.. Senator, I'm not familiar with that particular  
21 case. It does not square with our policy in all respects, and  
22 I would have to look at that particular case you're talking  
23 about to give you an answer.

24 Senator Huddleston. I don't have the documentation on that  
25 particular case, but it brings up the point as to what kind of

1 control you exercised over this kind of informant in this kind  
2 of an organization and to what extent an effort is made to  
3 prevent these informants from engaging in the kind of thing  
4 that you are supposedly trying to prevent.

5 Mr. Adams. A good example of this was Mr. Rowe, who became  
6 active in an action group, and we told him to get out or  
7 we would no longer use him as an informant, in spite of the  
8 information he had furnished in the past.

9 We have had cases, Senator, where we have had --

10 Senator Huddleston. But you also told him to participate  
11 in violent activities.

12 Mr. Adams. We did not tell him to participate in violent  
13 activities.

14 Senator Huddleston. That's what he said.

15 Mr. Adams. I know that's what he said. But that's what  
16 lawsuits are all about, is that there are two sides to the  
17 issue, and our agents handling this have advised us, and I  
18 believe have advised your staff, that at no time did they  
19 advise him to engage in violence.

20 Senator Huddleston. Just to do what was necessary to  
21 get the information, I believe maybe might have been his  
22 instructions.

23 Mr. Adams. I don't think they made any such statement  
24 to him along that line, and we have informants, we have  
25 informants who have gotten involved in the violation of the law,

smn 8

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 and we have immediately converted their status from an informant  
2 to the subject, and have prosecuted I would say, offhand, I  
3 can think of around 20 informants that we have prosecuted for  
4 violating the laws, once it came to our attention, and even  
5 to show you our policy of disseminating information on violence  
6 in this case, during the review of the matter, the agents told  
7 me that they found one case where their agent had been working  
8 24 hours a day, and he was a little late in disseminating the  
9 information to the police department. No violence occurred,  
10 but it showed up in a file review, and he was censured for  
11 his delay in properly notifying local authorities.

12 So we not only have a policy, I feel that we do follow  
13 reasonable safeguards in order to carry it out, including periodic  
14 review of all informant files.

15 Senator Huddleston. Well, Mr. Rowe's statement is  
16 substantiated to some extent with the acknowledgement by the  
17 agent in charge that if you're going to be a Klansman and you  
18 happen to be with someone and they decide to do something, that  
19 he couldn't be an angel. These were the words of the agent,  
20 and be a good informant. He wouldn't take the lead, but the  
21 implication is that he would have to go along and would have  
22 to be involved if he was going to maintain his credibility.

23 Mr. Adams. There's no question but that an informant at  
24 times will have to be present during demonstrations, riots,  
25 fistfights that take place, but I believe his statement was

3mn9  
Phone (Area 202) 544-6000

1 to the effect that -- and I was sitting in the back of the  
2 room and I don't recall it exactly, but some of them were  
3 beat with chains, and I didn't hear whether he said he beat  
4 someone with a chain or not, but I rather doubt that he did  
5 because it's one thing being present, and it's another thing  
6 taking an active part in criminal actions.

7 Senator Huddleston. He was close enough to get his  
8 throat cut.

9 How does the gathering of information --

10 Senator Tower. Senator Mathias is here, and I think that  
11 we probably should recess a few minutes.

12 Could we have Senator Mathias' questions and then should  
13 we convene this afternoon?

14 Senator Huddleston. I'm finished. I just had one more  
15 question.

16 Senator Tower. Go ahead.

17 Senator Huddleston. I wanted to ask how the selection of  
18 information about an individual's personal life, social, sex  
19 life and becoming involved in that sex life or social life  
20 is a requirement for law enforcement or crime prevention.

21 Mr. Adams. Our agent handlers have advised us on Mr.  
22 Rowe, that they gave him no such instruction, they had no  
23 such knowledge concerning it, and I can't see where it would  
24 be of any value whatsoever.

25 Senator Huddleston. You aren't aware of any case where

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 these instructions were given to an agent or an informant?

2 Mr. Adams. To get involved in sexual activity? No, sir.

3 Senator Huddleston. Thank you, Mr. Chairman.

4 Senator Tower. Senator Mathias.

5 Senator Mathias. Thank you, Mr. Chairman.

6 I would like to come back very briefly to the Fourth  
7 Amendment considerations in connection with the use of informants  
8 and in posing these questions we're not thinking of the one  
9 time volunteer who walks in to an FBI office and says I have  
10 a story I want to tell you and that's the only time that you  
11 may see him. I'm thinking of the kind of situations in which  
12 there is a more extended relationship which could be of varying  
13 degrees. It might be in one case that the same individual  
14 will have some usefulness in a number of situations. But when  
15 the FBI orders a regular agent to engage in a search, the first  
16 test is a judicial warrant, and what I would like to explore  
17 with you is the difference between a one time search which  
18 requires a warrant, and which you get when you make that  
19 search, and a continuous search which uses an informant, or  
20 the case of a continuous search which uses a regular undercover  
21 agent, someone who is totally under your control, and is in a  
22 slightly different category than an informant.

23 Mr. Adams. Well, we get there into the fact that the  
24 Supreme Court has still held that the use of informants does  
25 not invade any of these constitutionally protected areas, and

1 if a person wants to tell an informant something that isn't  
2 protected by the Supreme Court.

3 An actual search for legal evidence, that is a protected  
4 item, but information and the use of informants have been  
5 consistently held as not posing any constitutional problems.

6 Senator Mathias. I would agree, if you're talking about  
7 the fellow who walks in off the street, as I said earlier,  
8 but is it true that under existing procedures informants are  
9 given background checks?

10 Mr. Adams. Yes, sir.

11 Senator Mathias. And they are subject to a testing period.

12 Mr. Adams. That's right, to verify and make sure they  
13 are providing to us reliable information.

14 Senator Mathias. And during the period that the relation-  
15 ship continues, they are rather closely controlled by the  
16 handling agents.

17 Mr. Adams. That's true.

18 Senator Mathias. So in effect they can come in a very  
19 practical way agents themselves to the FBI.

20 Mr. Adams. They can do nothing --

21 Senator Mathias. Certainly agents in the common law use  
22 of the word.

23 Mr. Adams. That's right, they can do nothing, and we  
24 instruct our agents that an informant can do nothing that the  
25 agent himself cannot do, and if the agent can work himself into

smn 12

Phone (Area 202) 544-6000

WARD &amp; PAUL

410 First Street, S.E., Washington, D.C. 20003

1 an organization in an undercover capacity, he can sit there and  
2 glean all the information that he wants, and that is not in the  
3 Constitution as a protected area. But we do have this problem.

4 Senator Mathias. But if a regular agent who is a member  
5 of the FBI attempted to enter these premises, he would require  
6 a warrant?

7 Mr. Adams. No, sir, if a regular -- it depends on the  
8 purpose for which he is entering. If a regular agent by  
9 concealing his identity, by -- was admitted as a member of the  
10 Communist Party, he can attend Communist Party meetings, and he  
11 can enter the premises, he can enter the building, and there's  
12 no constitutionally invaded area there.

13 Senator Mathias. And so you feel that anyone who has  
14 a less formal relationship with the Bureau than a regular  
15 agent, who can undertake a continuous surveillance operation  
16 as an undercover agent or as an informant. --

17 Mr. Adams. As long as he commits no illegal acts.

18 Senator Mathias. Let me ask you why you feel that it is  
19 impractical to require a warrant since, as I understand it,  
20 headquarters must approve the use of an informant. Is that  
21 degree of formal action required?

22

23

24

25

Tape 9

Phone (Area 202) 544-6007

WARD & PAUL

410 First Street, S.E., Washington, D.C. 20003

1 Mr. Adams. The main difficulty is the particularity  
1 which has to be shown in obtaining a search warrant. You  
2 have to go after particular evidence. You have to specify  
3 what you're going after, and an informant operates in an  
4 area that you just cannot specify. He doesn't know what's  
5 going to be discussed at that meeting. It may be a plot to  
6 blow up the Capitol again or it may be a plot to blow up the  
7 State Department building.

8 Senator Mathias. If it were a criminal investigation,  
9 you would have little difficulty with probable cause, wouldn't  
10 you?

11 Mr. Adams. We would have difficulty in a warrant to  
12 use someone as an informant in that area because the same  
13 difficulty of particularity exists. We can't specify.

14 Senator Mathias. I understand the problem because it's  
15 very similar to one that we discussed earlier in connection  
16 say wiretaps on a national security problem.

17 Mr. Adams. That's it, and there we face the problem of  
18 where the Soviet, an individual identified as a Soviet spy  
19 in a friendly country and they tell us he's been a Soviet spy  
20 there and now he's coming to the United States, and if we can't  
21 show under a probable cause warrant, if we couldn't show that  
22 he was actually engaging in espionage in the United States,  
23 we couldn't get a wiretap under the probable cause requirements  
24 which have been discussed. If the good fairy didn't drop the  
25

1 evidence in our hands that this individual is here conducting  
2 espionage, we again would fall short of this, and that's  
3 why we're still groping with it.

4 Senator Mathias. When you say fall short, you really,  
5 you would be falling short of the requirements of the Fourth  
6 Amendment.

7 Mr. Adams. That's right, except for the fact that the  
8 President, under this Constitutional powers, to protect this  
9 nation and make sure that it survives first, first of all  
10 national survival, and these are the areas that not only the  
11 President but the Attorney General are concerned in and we're  
12 all hoping that somehow we can reach a legislative middle  
13 ground in here.

14 Senator Mathias. Which we discussed in the other national  
15 security area as to curtailling a warrant to that particular  
16 need.

17 Mr. Adams. And if you could get away from probable  
18 cause and get some degree of reasonable cause and get some  
19 method of sealing indefinitely your interest, say, in an  
20 ongoing espionage case and can work out those difficulties,  
21 we may get their yet.

22 Senator Mathias. And you don't despair of finding that  
23 middle ground?

24 Mr. Adams. I don't because I think that today there's  
25 more of an open mind between Congress and the Executive Branch

1 and the FBI and everyone concerning the need to get these  
2 areas resolved.

3 Senator Mathias. And you believe that the Department,  
4 if we could come together, would support, would agree to that  
5 kind of a warrant requirement if we could agree on the language?

6 Mr. Adams. If we can work out problems and the Attorney  
7 General is personally interested in that also.

8 Senator Mathias. Do you think that this agreement might  
9 extend to some of those other areas that we talked about?

10 Mr. Adams. I think that that would be a much greater  
11 difficulty in an area of domestic intelligence informant who  
12 reports on many different operations and different types of  
13 activities that might come up rather than say in a Soviet  
14 espionage or a foreign espionage case where you do have a little  
15 more degree of specificity to deal with.

16 Senator Mathias. I suggest that we arrange to get  
17 together and try out some drafts with each other, but in the  
18 meantime, of course, there's another alternative and that  
19 would be the use of wiretap procedure by which the Attorney  
20 General must approve a wiretap before it is placed, and the  
21 same general process could be used for informants, since  
22 you come to headquarters any way.

23 Mr. Adams. That could be an alternative. I think it  
24 would be a very burdensome alternative and I think at some  
25 point after we attack the major abuses, or what are considered

1 major abuses of Congress and get over this hurdle, I think  
2 we're still going to have to recognize that heads of agencies  
3 have to accept the responsibility for managing that agency  
4 and we can't just keep pushing every operational problem up  
5 to the top because there just aren't enough hours in the day.

6 Senator Mathias. But the reason that parallel suggests  
7 itself is of course the fact that the wiretap deals generally  
8 with one level of information in one sense of gathering  
9 information. You hear what you hear from the tap.

10 Mr. Adams. But you're dealing in a much smaller number  
11 also.

12 Senator Mathias. Smaller number, but that's all the  
13 more reason. When an informant goes in, he has all of his  
14 senses. He's gathering all of the information a human being  
15 can acquire from a situation and has access to more information  
16 than the average wiretap.

17 And it would seem to me that for that reason a parallel  
18 process might be useful and in order.

19 Mr. Adams. Mr. Mintz pointed out one other main  
20 distinction. to me which I had overlooked from our prior  
21 discussions, which is the fact that with an informant he is  
22 more in the position of being a central monitor in that one  
23 of the two parties to the conversation agrees, such as like  
24 central monitoring of telephones and microphones and  
25 anything else versus the wiretap itself where the individual

1 whose telephone is being tapped is not aware and there is,  
2 and neither of the two parties talking had agreed that their  
3 conversation could be monitored.

4 Senator Mathias. I find that one difficult to accept.  
5 If I'm the third party overhearing a conversation that is taking  
6 place in a room where I am, and my true character isn't perceived  
7 by the two people who are talking, in effect they haven't  
8 consented to my overhearing my conversation. Then they consent  
9 if they believe that I am their friend or their, a partisan  
10 of theirs.

11 But if they knew in fact that I was an informant for  
12 someone else, they wouldn't be consenting.

13 Mr. Adams. Well, that's like I believe Senator Hart  
14 raised earlier, that the courts thus far have made this  
15 distinction with no difficulty, but that doesn't mean that  
16 there may not be some legislative compromise which might be  
17 addressed.

18 Senator Mathias. Well, I particularly appreciate your  
19 attitude in being willing to work on these problems because  
20 I think that's the most important thing that can evolve from  
21 these hearings, so that we can actually look at the Fourth  
22 Amendment as the standard that we have to achieve. But the  
23 way we get there is obviously going to be a lot easier if we  
24 can work toward them together.

25 I just have one final question, Mr. Chairman, and that

1 deals with whether we shouldn't impose a standard of probable  
2 cause that a crime has been committed as a means of controlling  
3 the use of informants and the kind of information that they  
4 collect.

5 Do you feel that this would be too restrictive?

6 Mr. Adams. Yes, sir, I do.

7  
8 When I look at informants and I see that each year  
9 informants provide us, locate 5000 dangerous fugitives, they  
10 provide subjects in 2000 more cases, they recover \$86 million  
11 in stolen property and contraband, and that's irrespective  
12 of what we give the local law enforcement and other Federal  
13 agencies, which is almost a comparable figure, we have almost  
14 reached a point in the criminal law where we don't have much  
15 left. And in the intelligence field we still, I think when  
16 we carve all of the problems away, we still have to make sure  
17 that we have the means to gather information which will permit  
18 us to be aware of the identity of individuals and organizations  
19 that are acting to overthrow the government of the United  
20 States. And I think we still have some areas to look hard  
21 at as we have discussed, but I think informants are here to  
22 stay. They are absolutely essential to law enforcement.  
23 Everyone uses informants. The press has informants, Congress  
24 has informants, you have individuals in your community that  
25 you rely on, not for ulterior purposes, but to let you know  
what's the feel of the people, am I serving them properly,

1 am I carrying out this?

2 It's here to say. It's been here throughout history  
3 and there will always be informants. And the thing we want to  
4 avoid is abuses like provocateurs, criminal activities, and  
5 to ensure that we have safeguards that will prevent that.  
6 But we do need informants.

7 Senator Tower. Senator Hart, do you have any further  
8 questions?

9 Senator Hart of Michigan: Yes. I ask unanimous request  
10 perhaps with a view to giving balance to the record, the  
11 groups that we have discussed this morning into which the  
12 Bureau has put informants, in popular language, our liberal  
13 groups -- I would ask unanimous consent that be printed in  
14 the record, the summary of the opening of the headquarters  
15 file by the Bureau of Dr. Carl McIntyre when he announced  
16 that he was organizing a group to counter the American Civil  
17 Liberties Union and other "liberal and communist groups,"  
18 is not a left only pre-occupation.

19 Senator Tower. Without objection, so ordered.

20 (The material referred to follows:)

21

22

23

24

25

1 Senator Tower. Any more questions?

2 Then the Committee will have an Executive Session this  
3 afternoon in Room 3110 in the Dirksen Building at 3:00, and  
4 I hope everyone will be in attendance.

5 Tomorrow morning we will hear from Courtney Evans,  
6 Cartha DeLoach. Tomorrow afternoon, former Attorneys General  
7 Ramsey Clark and Edward Katzenbach.

8 The Committee, the hearings are recessed until 10:00  
9 a.m. tomorrow morning.

10 (Whereupon, at 1:10 o'clock p.m., the hearing in the  
11 above mentioned matter was concluded, to reconvene on Wednesday  
12 December 3rd, 1975, at 10:00 o'clock a.m.)

13 - - -  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NR045 WA PLAIN

6:31PM UTEC 10/9/75 GHS

TO ALL SACS

FROM DIRECTOR

INTERVIEWS OF FBI EMPLOYEES BY CONGRESSIONAL COMMITTEES

BY MEMORANDUM TO ALL EMPLOYEES DATED MAY 28, 1975, CAPTIONED "INTERVIEWS OF FBI EMPLOYEES," ALL EMPLOYEES WERE ADVISED OF THE NECESSITY OF SECURING FBI HEADQUARTERS APPROVAL PRIOR TO SUBMITTING TO INTERVIEWS BY REPRESENTATIVES OF CONGRESSIONAL COMMITTEES. THE NECESSITY OF SECURING THIS APPROVAL IS PROMPTED BY THE EMPLOYMENT AGREEMENT ALL EMPLOYEES HAVE SIGNED.

YOU WERE ADVISED THAT CONGRESSIONAL STAFF MEMBERS WERE CONDUCTING INTERVIEWS OF FORMER AND/OR CURRENT EMPLOYEES AND THAT THIS BUREAU HAD PLEDGED ITS COOPERATION WITH CONGRESS. OUR COOPERATIVE EFFORTS, OF COURSE, MUST BE CONSISTENT WITH BUREAU PROCEDURES.

RECENTLY, WE HAVE HAD ATTEMPTS BY CONGRESSIONAL COMMITTEE STAFF MEMBERS TO INTERVIEW CURRENT EMPLOYEES WITHOUT PRIOR CONTACT WITH FBI HEADQUARTERS. YOU ARE AGAIN REMINDED

*ASAC*  
*Supv III*  
*IV*  
*V*  
*VI*

62-2986-7

SEARCHED <input checked="" type="checkbox"/>	INDEXED <input checked="" type="checkbox"/>
SERIALIZED <input checked="" type="checkbox"/>	FILED <input checked="" type="checkbox"/>
OCT 9 1975	
FBI - HOUSTON	

*PRC*

PAGE TWO

THAT IF A REPRESENTATIVE OF A CONGRESSIONAL COMMITTEE SHOULD  
CONTACT A BUREAU EMPLOYEE, THAT EMPLOYEE SHOULD DECLINE TO  
RESPOND TO QUESTIONS POSED TO HIM AND ADVISE THE CONGRES-  
SIONAL STAFF MEMBER OF THE NECESSITY OF RECEIVING FBI  
HEADQUARTERS APPROVAL BEFORE RESPONDING TO QUESTIONS.

END

NR045 WA PLAIN

6:31PMNITEL 10/9/75 GHS

TO ALL SACS

FROM DIRECTOR

INTERVIEWS OF FBI EMPLOYEES BY CONGRESSIONAL COMMITTEES

BY MEMORANDUM TO ALL EMPLOYEES DATED MAY 28, 1975, CAPTIONED "INTERVIEWS OF FBI EMPLOYEES," ALL EMPLOYEES WERE ADVISED OF THE NECESSITY OF SECURING FBI HEADQUARTERS APPROVAL PRIOR TO SUBMITTING TO INTERVIEWS BY REPRESENTATIVES OF CONGRESSIONAL COMMITTEES. THE NECESSITY OF SECURING THIS APPROVAL IS PROMPTED BY THE EMPLOYMENT AGREEMENT ALL EMPLOYEES HAVE SIGNED.

YOU WERE ADVISED THAT CONGRESSIONAL STAFF MEMBERS WERE CONDUCTING INTERVIEWS OF FORMER AND/OR CURRENT EMPLOYEES AND THAT THIS BUREAU HAD PLEDGED ITS COOPERATION WITH CONGRESS. OUR COOPERATIVE EFFORTS, OF COURSE, MUST BE CONSISTENT WITH BUREAU PROCEDURES.

RECENTLY, WE HAVE HAD ATTEMPTS BY CONGRESSIONAL COMMITTEE STAFF MEMBERS TO INTERVIEW CURRENT EMPLOYEES WITHOUT PRIOR CONTACT WITH FBI HEADQUARTERS. YOU ARE AGAIN REMINDED

62-2986-7

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 9 1975	
FBI - HOUSTON	

PAGE TWO

THAT IF A REPRESENTATIVE OF A CONGRESSIONAL COMMITTEE SHOULD  
CONTACT A BUREAU EMPLOYEE, THAT EMPLOYEE SHOULD DECLINE TO  
RESPOND TO QUESTIONS POSED TO HIM AND ADVISE THE CONGRES-  
SIONAL STAFF MEMBER OF THE NECESSITY OF RECEIVING FBI  
HEADQUARTERS APPROVAL BEFORE RESPONDING TO QUESTIONS.

END

NR033 WA CODE

5:33PM 9/4/75 NITEL AJN

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 79

REBUTEL MAY 2, 1975.

PURPOSES OF INSTANT TELETYPE ARE TO (1) REITERATE THAT FBI HAS PLEDGED FULL COOPERATION WITH THE SENATE SELECT COMMITTEE (SSC) AND WISHES TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE SSC WITH RESPECT TO THE FBI; AND (2) SET FORTH NEW PROCEDURE RELATING TO SSC STAFF INTERVIEWS OF CURRENT AND FORMER FBI EMPLOYEES.

FOR INFORMATION OF THOSE OFFICES WHICH HAVE NOT PREVIOUSLY HAD CURRENT OR FORMER EMPLOYEES IN ITS TERRITORY INTERVIEWED BY THE SSC, THE BUREAU FREQUENTLY LEARNS FROM THE SSC OR OTHERWISE THAT FORMER EMPLOYEES ARE BEING CONSIDERED FOR INTERVIEW BY THE SSC STAFF. INSTRUCTIONS ARE ISSUED FOR THE FIELD OFFICE TO CONTACT THE FORMER EMPLOYEE TO ALERT HIM AS TO POSSIBLE INTERVIEW, REMIND HIM OF HIS CONFIDENTIALITY AGREEMENT WITH THE BUREAU AND SUGGEST THAT IF HE IS CONTACTED FOR

ASAC  
# 3  
# 4  
# 5

62-2986-6

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 4 1975	
FBI - HOUSTON	
SAC	

PAGE TWO

INTERVIEW, HE MAY CONTACT THE LEGAL COUNSEL DIVISION BY COLLECT CALL FOR FURTHER INFORMATION. IN THE USUAL CASE, AS CIRCUMSTANCES UNFOLD, THE FORMER EMPLOYEE IS TOLD (1) THAT HE HAS A RIGHT TO LEGAL COUNSEL, BUT THAT THE BUREAU CANNOT PROVIDE SAME; (2) THAT THE BUREAU HAS WAIVED THE CONFIDENTIALITY AGREEMENT FOR THE INTERVIEW WITHIN SPECIFIED PARAMETERS; AND (3) THAT THERE ARE FOUR PRIVILEGED AREAS IN WHICH HE IS NOT REQUIRED TO ANSWER QUESTION. THESE AREAS ARE RELATING TO INFORMATION WHICH MAY (A) IDENTIFY BUREAU SOURCES; (B) REVEAL SENSITIVE METHODS/TECHNIQUES; (C) REVEAL IDENTITIES OF THIRD AGENCIES, INCLUDING FOREIGN INTELLIGENCE AGENCIES, OR INFORMATION FROM SUCH AGENCIES; AND (D) ADVERSELY AFFECT ONGOING BUREAU INVESTIGATIONS.

HERETOFORE, BUREAU HAS OFFERED INTERVIEWEES CONSULTATION PRIVILEGES WHEREBY A BUREAU SUPERVISOR WOULD BE AVAILABLE NEARBY, ALTHOUGH NOT ACTUALLY AT INTERVIEW, SO INTERVIEWEE MIGHT CONSULT WITH HIM SHOULD QUESTIONS ARISE AS TO PARAMETERS OF INTERVIEW OR PRIVILEGED AREAS. THE CONSULTANT DID NOT ACT AS A LEGAL ADVISOR.

EFFECTIVE IMMEDIATELY, BUREAU WILL NO LONGER PROVIDE

PAGE TH

EE

ON-THE-SCENE PERSONNEL FOR CONSULTATION PURPOSES TO ASSIST EITHER CURRENT OR FORMER EMPLOYEES. PROSPECTIVE INTERVIEWEES SHOULD BE TOLD THAT, IF THEY DESIRE ASSISTANCE OF THIS NATURE DURING AN INTERVIEW, THEY MAY CONTACT EITHER PERSONALLY (IF INTERVIEW IS IN WASHINGTON, D. C.) OR BY COLLECT CALL, THE ASSISTANT DIRECTOR OF THE INTELLIGENCE DIVISION, MR. W. R. WANNALL, OR, IN HIS ABSENCE, SECTION CHIEF W. O. CREGAR.

THIS CHANGE IN PROCEDURE SHOULD NOT BE CONSTRUED AS LESSENING THE ASSISTANCE WE ARE FURNISHING TO CURRENT AND FORMER EMPLOYEES.

FOR YOUR ADDITIONAL INFORMATION, I AM WORKING WITH THE DEPARTMENT IN EXPLORING AVENUES TO ARRANGE LEGAL REPRESENTATION, WHEN NECESSARY, FOR CURRENT AND FORMER EMPLOYEES WITHOUT EXPENSE TO THEM. YOU WILL BE KEPT ADVISED OF DEVELOPMENTS IN THIS REGARD.

END

REC FBI MO BAJ CLR

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 12, 1975

~~PERSONAL ATTENTION~~  
MEMORANDUM 35-75

MEMORANDUM TO ALL SPECIAL AGENTS IN CHARGE:

(A) INTERVIEWS OF FBI EMPLOYEES BY CONGRESSIONAL STAFF MEMBERS -- In accordance with a recently adopted suggestion, you are to insure that all new employees who enter on duty in your field office are fully apprised of the contents of the Memorandum to All Employees, dated May 28, 1975, dealing with captioned matter. This should be done at the time they execute the FBI Employment Agreement, FD-291, regarding the unauthorized disclosure of information.

This practice can, of course, be discontinued upon the completion of the inquiry that Congress has instituted.

62-2986-5

SEARCHED	INDEXED
SERIALIZED	FILED
AUG 14 1975	
FBI-HOUSTON	

*[Signature]*

NR022 WA CODE

1:05PM NITEL 6-13-75 VLJ

TO ALL SACS

FROM DIRECTOR (62-116464)

PERSONAL ATTENTION

HOUSTUDY 75.

REBUTELS MAY 2, 20, 1975, "SENSTUDY 75."

BUFILE 62-116464 AND CODE NAME "HOUSTUDY 75" DESIGNATED.  
FOR ALL MATTERS RELATING TO HOUSE SELECT COMMITTEE TO STUDY  
GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES  
AND BUREAU'S HANDLING OF MATTERS PERTAINING THERETO. USE  
THIS FILE NUMBER AND CAPTION FOR MATTERS RELATING TO HOUSE  
COMMITTEE AS SEPARATE FROM SENSTUDY 75 FOR MATTERS RELATING  
TO SENATE COMMITTEE.

END  
HO FBI KFM CLR

*1-62 new*

62-2986-4

SEARCHED	INDEXED
SERIALIZED <i>CH</i>	FILED <i>CH</i>
JUN 13 1975	
FBI - HOUSTON	

*[Signature]*

1-75



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 28, 1975

## MEMORANDUM TO ALL EMPLOYEES

## RE: INTERVIEWS OF FBI EMPLOYEES

All employees are advised that Congress is conducting an inquiry into activities of the Federal Bureau of Investigation. Congressional staff members are conducting interviews of former and current FBI employees. This Bureau has pledged its cooperation with the Congress.

You are reminded of the FBI Employment Agreement (copy attached) with which you agreed to comply during your employment in the FBI and following termination of such employment.

Also, you are reminded of Title 28, Code of Federal Regulations, Section 16.22 (copy attached), which reads as follows:

"No employee or former employee of the Department of Justice shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department or disclose any information relating to material contained in the files of the Department, or disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without prior approval of the appropriate Department official or the Attorney General in accordance with Section 16.24."

Also, you are reminded of Department of Justice Order Number 116-56, dated May 15, 1956, (copy attached) which, among other things, requires an employee upon the completion of his testimony to prepare a memorandum outlining his testimony.

Our cooperative efforts, of course, must be consistent with the above cited authority. Therefore, if you are contacted for purpose of interview or testimony you are to request approval as required by the Employment Agreement and await authorization before furnishing information, testimony, or record material.

Enclosures (3)

*Clarence M. Kelley*  
Clarence M. Kelley  
Director

62-2986-3

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 6 1975	
FBI - HOUSTON	



## EMPLOYMENT AGREEMENT

As consideration for employment in the Federal Bureau of Investigation (FBI), United States Department of Justice, and as a condition for continued employment, I hereby declare that I intend to be governed by and I will comply with the following provisions:

(1) That I am hereby advised and I understand that Federal law such as Title 18, United States Code, Sections 793, 794, and 798; Order of the President of the United States (Executive Order 11652); and regulations issued by the Attorney General of the United States (28 Code of Federal Regulations, Sections 16.21 through 16.26) prohibit loss, misuse, or unauthorized disclosure or production of national security information, other classified information and other nonclassified information in the files of the FBI;

(2) I understand that unauthorized disclosure of information in the files of the FBI or information I may acquire as an employee of the FBI could result in impairment of national security, place human life in jeopardy, or result in the denial of due process to a person or persons who are subjects of an FBI investigation, or prevent the FBI from effectively discharging its responsibilities. I understand the need for this secrecy agreement; therefore, as consideration for employment I agree that I will never divulge, publish, or reveal either by word or conduct, or by other means disclose to any unauthorized recipient without official written authorization by the Director of the FBI or his delegate, any information from the investigatory files of the FBI or any information relating to material contained in the files, or disclose any information or produce any material acquired as a part of the performance of my official duties or because of my official status. The burden is on me to determine, prior to disclosure, whether information may be disclosed and in this regard I agree to request approval of the Director of the FBI in each such instance by presenting the full text of my proposed disclosure in writing to the Director of the FBI at least thirty (30) days prior to disclosure. I understand that this agreement is not intended to apply to information which has been placed in the public domain or to prevent me from writing or speaking about the FBI but it is intended to prevent disclosure of information where disclosure would be contrary to law, regulation or public policy. I agree the Director of the FBI is in a better position than I to make that determination;

(3) I agree that all information acquired by me in connection with my official duties with the FBI and all official material to which I have access remains the property of the United States of America, and I will surrender upon demand by the Director of the FBI or his delegate, or upon separation from the FBI, any material relating to such information or property in my possession;

(4) That I understand unauthorized disclosure may be a violation of Federal law and prosecuted as a criminal offense and in addition to this agreement may be enforced by means of an injunction or other civil remedy.

I accept the above provisions as conditions for my employment and continued employment in the FBI. I agree to comply with these provisions both during my employment in the FBI and following termination of such employment.

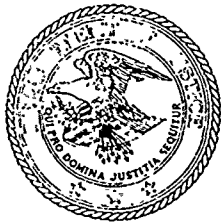
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or print name)

Witnessed and accepted in behalf of the Director, FBI, on

, 19\_\_\_\_, by \_\_\_\_\_

\_\_\_\_\_  
(Signature)



Office of the Attorney General  
Washington, D. C. 20530

January 18, 1973

ORDER NO. 501-73

RULES AND REGULATIONS

**Title 28—JUDICIAL  
ADMINISTRATION**

**Chapter I—Department of Justice**

[Order 501-73]

**PART 16—PRODUCTION OR DISCLOSURE  
OF MATERIAL OR INFORMATION**

**Subpart B—Production or Disclosure  
in Response to Subpenas or Demands  
of Courts or Other Authorities**

This order delegates to certain Department of Justice officials the authority to approve the production or disclosure of material or information contained in Department files, or information or material acquired by a person while employed by the Department. It applies where a subpoena, order or other demand of a court or other authority, such as an administrative agency, is issued for the production or disclosure of such information.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, Subpart B of Part 16 of Chapter I of Title 28, Code of Federal Regulations, is revised, and its provisions renumbered, to read as follows:

**Subpart B—Production or Disclosure in Response  
to Subpenas or Demands of Courts or Other  
Authorities**

- Sec.  
16.21 Purpose and scope.  
16.22 Production or disclosure prohibited unless approved by appropriate Department official.  
16.23 Procedure in the event of a demand for production or disclosure.  
16.24 Final action by the appropriate Department official or the Attorney General.  
16.25 Procedure where a Department decision concerning a demand is not made prior to the time a response to the demand is required.  
16.26 Procedure in the event of an adverse ruling.

**AUTHORITY:** 28 U.S.C. 509, 510 and 5 U.S.C. 301.

**Subpart B—Production or Disclosure  
in Response to Subpenas or Demands  
of Courts or Other Authorities**

**§ 16.21 Purpose and scope.**

(a) This subpart sets forth the procedures to be followed when a subpoena, order, or other demand (hereinafter referred to as a "demand") of a court or

other authority is issued for the production or disclosure of (1) any material contained in the files of the Department, (2) any information relating to material contained in the files of the Department, or (3) any information or material acquired by any person while such person was an employee of the Department as a part of the performance of his official duties or because of his official status.

(b) For purposes of this subpart, the term "employee of the Department" includes all officers and employees of the United States appointed by, or subject to the supervision, jurisdiction, or control of, the Attorney General of the United States, including U.S. attorneys, U.S. marshals, and members of the staffs of those officials.

**§ 16.22 Production or disclosure prohibited unless approved by appropriate Department official.**

No employee or former employee of the Department of Justice shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department or disclose any information relating to material contained in the files of the Department, or disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without prior approval of the appropriate Department official or the Attorney General in accordance with § 16.24.

**§ 16.23 Procedure in the event of a demand for production or disclosure.**

(a) Whenever a demand is made upon an employee or former employee of the Department for the production of material or the disclosure of information described in § 16.21(a), he shall immediately notify the U.S. attorney for the district where the issuing authority is located. The U.S. attorney shall immediately request instructions from the appropriate Department official, as designated in paragraph (b) of this section.

(b) The Department officials authorized to approve production or disclosure under this subpart are:

(1) In the event that the case or other matter which gave rise to the demanded material or information is or, if closed, was within the cognizance of a division of the Department, the Assistant Attorney General in charge of that division. This authority may be redelegated to Deputy Assistant Attorneys General.

(2) In instances of demands that are not covered by paragraph (b) (1) of this section:

(i) The Director of the Federal Bureau of Investigation, if the demand is one made on an employee or former employee of that Bureau for information or if the demand calls for the production of material from the files of that Bureau, and

(ii) The Director of the Bureau of Prisons, if the demand is one made on an employee or former employee of that Bureau for information or if the demand calls for the production of material from the files of that Bureau.

(3) In instances of demands that are not covered by paragraph (b) (1) or (2) of this section, the Deputy Attorney General.

(c) If oral testimony is sought by the demand, an affidavit, or, if that is not feasible, a statement by the party seeking the testimony or his attorney, setting forth a summary of the testimony desired, must be furnished for submission by the U.S. attorney to the appropriate Department official.

§ 16.24 Final action by the appropriate Department official or the Attorney General.

(a) If the appropriate Department official, as designated in § 16.23(b), approves a demand for the production of material or disclosure of information, he shall so notify the U.S. attorney and such other persons as circumstances may warrant.

(b) If the appropriate Department official, as designated in § 16.23(b), decides not to approve a demand for the production of material or disclosure of information, he shall immediately refer the demand to the Attorney General for decision. Upon such referral, the Attorney General shall make the final decision and give notice thereof to the U.S. attorney and such other persons as circumstances may warrant.

§ 16.25 Procedure where a Department decision concerning a demand is not made prior to the time a response to the demand is required.

If response to the demand is required before the instructions from the appropriate Department official or the Attorney General are received, the U.S. attorney or other Department attorney designated for the purpose shall appear with the employee or former employee of the Department upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the appropriate Department official and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

§ 16.26 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 16.25 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions not to produce the material or disclose the information sought, in accordance with § 16.24, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand. "United States ex rel Touhy v. Ragen," 340 U.S. 462.

Dated: January 11, 1973.

RICHARD G. KLEINDIENST,  
Attorney General.

[FR Doc.73-1071 Filed 1-17-73; 8:45 am]

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

May 15, 1956

ORDER NO. 116-56

It is the policy of the Department of Justice to extend the fullest possible cooperation to congressional committees requesting information from departmental files, interviews with department employees, testimony of department personnel, or testimony of Federal prisoners. The following procedures are prescribed in order to effectuate this policy on a basis which will be mutually satisfactory to the congressional committees and to the Department. [This order supersedes the Deputy Attorney General's Memorandum No. 5, dated March 23, 1953, and his Memorandum No. 97, dated August 5, 1954. It formalizes the Attorney General's press release of November 5, 1953, establishing procedures to permit committees of the Congress and their authorized representatives to interview and to take sworn testimony from Federal prisoners. It supplements Order No. 3229 (Revised) dated January 13, 1953, and Order No. 3464, Supplement No. 4 (Revised) dated January 13, 1953 (with Memorandum of "Authorization Under Order No. 3464 Supplement No. 4 (Revised)" dated January 13, 1953), insofar as said orders have reference to procedures to be followed in the Department's relations with congressional committees. In support of this order, reference should be had to the President's letter dated May 17, 1954, addressed to the Secretary of Defense, and to the Attorney General's Memorandum which accompanied it.]

A. REQUESTS FOR INFORMATION FROM DEPARTMENT FILES

1. Congressional committee requests for the examination of files or other confidential information should be reduced to writing, signed by the chairman of the committee, and addressed to the Deputy Attorney General, who is responsible for the coordination of our liaison with Congress and congressional committees. The request shall state the specific information sought as well as the specific objective for which it is sought. The Deputy Attorney General will forward the request to the appropriate division where a reply will be prepared and returned for the Deputy Attorney General's signature and dispatch to the chairman of the committee.

2. If the request concerns a closed case, i. e., one in which there is no litigation or administrative action pending or contemplated, the file may be made available for review in the Department, in the presence of the official or employee having custody thereof. The following procedure shall be followed in such cases:

a. The reply letter will advise the committee that the file is available for examination and set forth the name, telephone extension number, and room number of the person who will have custody of the file to be reviewed;

b. Before making the file available to the committee representative all reports and memoranda from the FBI as well as investigative reports from any other agency, will be removed from the file and not be made available for examination; provided however that if the committee representative states that it is essential that information from the FBI reports and memoranda be made available, he will be advised that the request will be considered by the Department. Thereafter a summary of the contents of the FBI reports and memoranda involved will be prepared which will not disclose investigative techniques, the identity of confidential informants, or other matters which might jeopardize the investigative operations of the FBI. This summary will be forwarded by the division to the FBI with a request for advice as to whether the FBI has any objection to examination of such summary by the committee representative. The file will not be physically relinquished from the custody of the Department. If the committee representative desires to examine investigative reports from other government agencies, contained in the files of the Department, he will be advised to direct his request to the agency whose reports are concerned.

3. If the request concerns an open case, i. e., one which litigation or administrative action is pending or contemplated, the file may not be made available for examination by the committee's representative. The following procedure shall be followed:

a. The reply letter should advise the committee that its request concerns a case in which litigation or administrative action is pending or contemplated, and state that the file cannot be made available until the case is completed; and

b. Should briefly set forth the status of the case in as much detail as is practicable and prudent without jeopardizing the pending contemplated litigation or administrative action.

#### **B. REQUESTS FOR INTERVIEWS WITH DEPARTMENTAL PERSONNEL**

1. Requests for interviews with departmental personnel regarding any official matters within the Department should be reduced to writing, signed by the chairman of the committee, and addressed to the Deputy Attorney General. When the approval of the Deputy Attorney General is given, the employee is expected to discuss such matters freely and cooperatively with the representative, subject to the limitations prescribed in A respecting open cases and data in investigative reports;

2. Upon the completion of the interview with the committee representative the employee will prepare a summary of it for the file, with a copy routed to his division head and a copy routed to the Deputy Attorney General.

C. EMPLOYEES TESTIFYING BEFORE CONGRESSIONAL COMMITTEES

1. When an employee is requested to testify before a congressional committee regarding official matters within the Department the Deputy Attorney General shall be promptly informed. When the Deputy Attorney General's approval is given the employee is expected to testify freely subject to limitations prescribed in A respecting open cases and data in investigative reports;

2. An employee subpoenaed to testify before a congressional committee on official matters within the Department shall promptly notify the Deputy Attorney General. In general he shall be guided in testifying by Order 3229 (Revised) and the President's letter of May 17, 1954, cited at the beginning of this Order.

3. Upon the completion of his testimony the employee will prepare a memorandum outlining his testimony with a copy routed to his division head and a copy routed to the Deputy Attorney General.

D. REQUESTS OF CONGRESSIONAL COMMITTEES FOR THE TESTIMONY OF FEDERAL PRISONERS

Because of the custodial hazards involved and the extent to which their public testimony may affect the discipline and well-being of the institution, it is the policy of the Department not to deliver Federal prisoners outside the penal institution in which they are incarcerated for the purpose of being interviewed or examined under oath by congressional committees. However, when it appears that no pending investigation or legal proceeding will be adversely affected thereby and that the public interest will not be otherwise adversely affected, Federal prisoners may be interviewed or examined under oath by congressional committees in the institution in which they are incarcerated under the following procedures, and with the specific advance approval of the Deputy Attorney General.

1. Arrangements for interviewing and taking of sworn testimony from a Federal prisoner by a committee of the Congress or the authorized representatives of such a committee shall be made in the form of a written request by the chairman of the committee to the Deputy Attorney General.

2. Such written request shall be made at least ten (10) days prior to the requested date for the interview and the taking of testimony and shall be accompanied by written evidence that authorization for the interview or the taking of sworn testimony was approved by vote of the committee. Such request shall contain a statement of the purpose and the subjects upon which the prisoner will be interrogated as well as the names of all persons other than the representatives of the Department of Justice who will be present.

3. A member of the interested committee of the Congress shall be present during the entire time of the interrogation.

4. The warden of the penal institution in which the Federal prisoner is incarcerated shall, at least forty-eight (48) hours prior to the time at which the interview takes place, advise the Federal prisoner concerned of the proposed interview or taking of sworn testimony; and shall further advise that he is under the same, but no greater obligation to answer than any other witness who is not a prisoner.

5. The warden of the penal institution shall have complete authority in conformity with the requirements of security and the maintenance of discipline to limit the number of persons who will be present at the interview and taking of testimony.

6. The warden or his authorized representative shall be present at the interview and at the taking of testimony and the Department of Justice shall have the right to have one of its representatives present throughout the interview and taking of testimony.

7. The committee shall arrange to have a stenographic transcript made of the entire proceedings at committee expense and shall furnish a copy of the transcript to the Department of Justice.

E. OBSERVERS IN ATTENDANCE AT COMMITTEE HEARINGS

In order that the Department may be kept currently advised in matters within its responsibility, and in order that the Deputy Attorney General may properly coordinate the Department's liaison with Congress and its committees, each division that has an observer in attendance at a congressional hearing, will have the observer prepare a written summary of the proceeding which should be sent to the division head and a copy routed to the Deputy Attorney General.

/s/ Herbert Brownell, Jr.

Attorney General

NR036 WA CODE

4:38PM NITEL 5-20-75 PAW

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY - 75.

REBUTEL MAY 2, 1975.

IN CONNECTION WITH WORK OF THE SENATE AND HOUSE SELECT COMMITTEES, ITS REPRESENTATIVES MAY CONTACT YOUR OFFICE FOR INFORMATION.

IN ONE RECENT INSTANCE, A REPRESENTATIVE OF THE SENATE SELECT COMMITTEE TELEPHONICALLY INQUIRED AS TO IDENTITY OF SAC IN A PARTICULAR OFFICE DURING 1970.

IN HANDLING SUCH INQUIRIES INSURE ESTABLISHING BONA FIDES OF REPRESENTATIVE BY SHOW OF CREDENTIALS ON PERSONAL CONTACT OR, IF TELEPHONIC CONTACT, BY TELEPHONING BACK TO COMMITTEE. UNLESS INFORMATION IS OF A PUBLIC NATURE, AS IN THE INSTANCE CITED ABOVE, OBTAIN FBIHQ CLEARANCE PRIOR TO SUPPLYING ANY INFORMATION. FBIHQ MUST BE EXPEDITIOUSLY ADVISED OF ALL INFORMATION FURNISHED.

END

*Supervisors*  
*IV*  
*III*  
*II*  
*I*

*SAC*  
*ASAC*

62-2986-2

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 20 1975	
FBI - HOUSTON	

NR074 WA CODE

9:48PM NITEL 5-2-75 MSE

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

CAPTIONED MATTER PERTAINS TO BUREAU'S HANDLING OF REQUESTS FROM SENATE AND HOUSE SELECT COMMITTEES TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES. IN CONNECTION WITH WORK OF THESE COMMITTEES, STAFF MEMBERS MAY SEEK TO INTERVIEW CURRENT AND FORMER FBI EMPLOYEES.

RECENTLY, THE SENATE SELECT COMMITTEE (SSC) STAFF HAS INTERVIEWED SEVERAL FORMER EMPLOYEES AND IT IS ANTICIPATED THAT MANY MORE SUCH PERSONNEL WILL BE CONTACTED.

THE FBI HAS PLEDGED FULL COOPERATION WITH THE COMMITTEE AND WE WISH TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE COMMITTEE WITH RESPECT TO THE FBI. HOWEVER, WE DO HAVE AN OBLIGATION TO INSURE THAT SENSITIVE SOURCES AND METHODS AND ONGOING SENSITIVE INVESTIGATIONS ARE FULLY

*Super IV*  
*III*  
*IV*  
*WR*  
*R*  
*K*

*ASAC*

62-2986-1  
66-1490

SEARCHED <i>SM</i>	INDEXED <i>lt</i>
SERIALIZED <i>SM</i>	FILED <i>lt</i>
MAY 2 1975	
FBI - HOUSTON	

*1 PPK*

PAGE TWO

PROTECTED. SHOULD ANY FORMER EMPLOYEE CONTACT YOUR OFFICE AND HAVE ANY QUESTION REGARDING HIS OBLIGATION NOT TO DIVULGE INFORMATION OBTAINED BY VIRTUE OF HIS PAST FBI EMPLOYMENT, HE SHOULD BE INSTRUCTED TO CONTACT LEGAL COUNSEL, FBIHQ, BY COLLECT CALL. YOUR CONVERSATIONS WITH FORMER EMPLOYEES MUST BE IN KEEPING WITH OUR PLEDGE. IT IS BELIEVED SUCH A PROCEDURE WOULD INSURE PROPER PROTECTION AND ALSO FACILITATE THE WORK OF THE SSC.

THE ABOVE PROCEDURE ALSO APPLIES TO CURRENT EMPLOYEES OF YOUR OFFICE. HOWEVER, CONTACT WITH THE LEGAL COUNSEL SHOULD BE HANDLED THROUGH THE SAC.

END

HAVE SOME BAD NEWS FOR YOU YOUR NR 007 HAS LEAD FOR LEGAT THEREFORE IT HAS TO COME ON TAPE LINE 4287

PLEASE CHANGE ACK TO PAW FBIHQ FOR 3 12 10 AND 9 THREE TELS

NR074 WA CODE  
9:48PM NITEL 5-2-75 MSE  
TO ALL SACS  
FROM DIRECTOR (62-116395)  
PERSONAL ATTENTION  
SENSTUDY 75

CAPTIONED MATTER PERTAINS TO BUREAU'S HANDLING OF REQUESTS FROM SENATE AND HOUSE SELECT COMMITTEES TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES. IN CONNECTION WITH WORK OF THESE COMMITTEES, STAFF MEMBERS MAY SEEK TO INTERVIEW CURRENT AND FORMER FBI EMPLOYEES.

RECENTLY, THE SENATE SELECT COMMITTEE (SSC) STAFF HAS INTERVIEWED SEVERAL FORMER EMPLOYEES AND IT IS ANTICIPATED THAT MANY MORE SUCH PERSONNEL WILL BE CONTACTED.

THE FBI HAS PLEDGED FULL COOPERATION WITH THE COMMITTEE AND WE WISH TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE COMMITTEE WITH RESPECT TO THE FBI. HOWEVER, WE DO HAVE AN OBLIGATION TO INSURE THAT SENSITIVE SOURCES AND METHODS AND ONGOING SENSITIVE INVESTIGATIONS ARE FULLY

62-29861

SEARCHED	INDEXED
SERIALIZED	FILED
2 1975	
FBI - HOUSTON	

PAGE TWO

PROTECTED. SHOULD ANY FORMER EMPLOYEE CONTACT YOUR OFFICE AND HAVE ANY QUESTION REGARDING HIS OBLIGATION NOT TO DIVULGE INFORMATION OBTAINED BY VIRTUE OF HIS PAST FBI EMPLOYMENT, HE SHOULD BE INSTRUCTED TO CONTACT LEGAL COUNSEL, FBIHQ, BY COLLECT CALL. YOUR CONVERSATIONS WITH FORMER EMPLOYEES MUST BE IN KEEPING WITH OUR PLEDGE. IT IS BELIEVED SUCH A PROCEDURE WOULD INSURE PROPER PROTECTION AND ALSO FACILITATE THE WORK OF THE SSC.

THE ABOVE PROCEDURE ALSO APPLIES TO CURRENT EMPLOYEES OF YOUR OFFICE. HOWEVER, CONTACT WITH THE LEGAL COUNSEL SHOULD BE HANDLED THROUGH THE SAC.

END

HAVE SOME BAD NEWS FOR YOU YOUR NR 007 HAS LEAD FOR LEGAT  
THEREFORE IT HAS TO COME ON TAPE LINE 4287  
PLEASE CHANGE ACK TO PAW FBIHQ FOR 3 12 10 AND 9 THREE TELS