

MEMORANDUM

To: 4.16.2.1

From: Kevin Tiernan

Inquiry Into the Destruction of Former FBI Director J. Edgar Hoover's Files and FBI Recordkeeping, Hearing Before a Subcommittee [on Government Information and Individual Rights] of the House Committee on Government Operations, 94th Cong., 1st Sess., Dec. 1, 1975

I have read the above-referenced hearing. A summary of relevant information is provided below.

I. KLEINDIENST TESTIMONY

Richard G. Kleindienst was Deputy Attorney General and Acting Attorney General when Hoover died on May 2, 1972. He testified that he learned of Hoover's death between 8 and 9 am on May 2 from (to the best of his recollection) Clyde Tolson (p. 2). Kleindienst then gave an oral order "that the offices of the Director be locked and secured until" an Acting Director was appointed (p. 3). To the best of his recollection, he gave this order by telephone either to Tolson or to Helen Gandy (Hoover's Executive Assistant), although Kleindienst thought it possible that he gave it to John P. Mohr, another high FBI official (p. 3). Kleindienst did not follow up to determine whether and how this order had been carried out, nor did he recall receiving any confirmation that it had been (p. 4).

Later on May 2 or on May 3, President Nixon named "Pat Gray" Acting Director on Kleindienst's recommendation (p. 4). Kleindienst did

not recall discussing his order to secure Hoover's office with Gray, and he had no personal knowledge as to whether his order was obeyed (p. 5).

Kleindienst testified that he had not taken notes or made any diary entries respecting these events (p. 7). When he later served as Attorney General, "there was a complete log of every telephone call that [he] made," but there was no log of his calls at the relevant time.

Kleindienst testified that he never looked at Hoover's files or directed anyone to do so for him (p. 8).

II. GANDY TESTIMONY

Helen Gandy was first hired as a confidential clerk in July 1919 for J. Edgar Hoover, and continued to work as his Executive Assistant until his death in May 1972.

Ms. Gandy testified that there were two types of files in Hoover's suite of offices, the personal correspondence file, and the so-called official confidential files. These were always kept separately. Following Hoover's death, at the direction of Tolson and Mohr and with the approval of Acting Director Gray, the official confidential files were separated from the personal correspondence files, and the personal correspondence files were then destroyed (p.36).

Gandy testified that the official confidential files were not indexed according to the Bureau's filing system. The only index was the subject index or name index and the cross references (p. 38).

All of the personal files were destroyed.

Mrs. Abzug inserts a memo into the record which she calls the "black-bag" memo. It is marked "P.F." for personal file. Gandy claims that the black-bag memo was mistakenly marked "P.F", but she doubts that there was more than one file kept in the personal file and then transferred to the official confidential files (pp. 40-43).

Apparently, shortly before his death, Mr. Hoover started to review the personal files and transferred at least eight items to the official confidential files. According to the Gandy testimony, following Hoover's death, she and her alternate, Erma Metcalfe completed this review, but found no official FBI documents in the personal files, which were then destroyed (pp. 44-45).

In the middle of the Gandy testimony an audio recording is played of an interview with William Sullivan. The transcript is inserted, and he is very candid about the kinds of information Hoover kept in the official confidential files, including Bureau political activity, and derogatory information on prominent persons, Ms. Gandy took issue with many of Sullivan's claims (pp. 58-59).

III. MOHR AND FELT TESTIMONY

John P. Mohr was Assistant to the Director of the FBI "in charge of the administrative side" and W. Mark Felt was an Associate Director of the FBI, Deputy Associate Director at the time of Hoover's death.

Mohr stated that on the day of Hoover's death, Kleindienst personally ordered him to secure Hoover's personal office, not the entire Director's suite. Mohr complied and sent Kleindienst a memo confirming that he had locked Hoover's personal office and that he had the keys (pp 65-66). Mohr also testified that there "were files that I maintained that were not in the record of the Bureau's files, which were contacts that I had, because if you are a smart investigator, you should have your own sources and keep them to yourself" (p. 68). Reference is made at page 92 to deposition given by Mohr in Tolson will dispute relating to an alleged review of Hoover's files.

The committee was very concerned about the idea that Hoover kept files of derogatory information on members of Congress. Mohr testifies that there were files on members of Congress in their regular investigative files if for instance a member was in violation of a federal law or if they corresponded with the Bureau. He denies that Hoover kept files for political purposes (pp. 67-68).

Mohr claims that on the day Hoover died Patrick Gray came to his office and asked to see the secret files. It seemed to Mohr that he was talking about information that would have embarrassed the Nixon Administration. Mohr told him that there were no secret files as far as he knew (pp. 88-90).

Felt testified that, 4 or 5 months before Hoover's death, Hoover asked him to collect and maintain in his office any files that were maintained in by Assistant Directors. Felt did so and retained "about two file cabinets", one file drawer of which he did not inventory or examine (pp. 66-68).

Felt testified that he received the official and confidential files "from Miss Gandy and had an inventory of them prepared." He tried repeatedly, but failed, to get Acting Director Gray to review these files. There was an official and confidential file on JFK concerning liaison between the FBI and the White House (pp. 85-87)¹.

According to Mrs Abzug, materials relating to "an agreement between the FBI and the Secret Service concerning Presidential protection" was once filed in Hoover's "personal" file and later moved to his official and confidential files (p. 95).

IV. MCDERMOTT TESTIMONY

John J. McDermott was an Assistant Director. He was in charge of the Records Section at the time of the Hearing.

In McDermott's prepared statement he explains some aspects of the Bureau's record keeping system in which the Committee had expressed an interest. He describes the evolution of the color coding the Bureau used and the meaning of typing a memo using blue, pink or white paper. White paper was used for memos that had permanent value. Blue paper was used for memos that had only temporary value. And pink paper was used for purely administrative purposes such as ordering supplies. Also the "Do Not File" designation was used when a memo was prepared for purely informative use. These memos were to be returned to the originator for

¹The Official and Confidential files were later moved to the Special File Room of the Files and Communications Division (p. 221).

destruction or filing. All of this was done as a way of reducing the amount of paper produced and maintained by the Bureau. This evolution appears in a more succinct and orderly way in McDermott's prepared statement, which follows his testimony (pp. 141-146).

McDermott testifies that the Justice Department asked the Internal Investigation Division of the FBI to conduct an investigation into the destruction of the Hoover files. The investigation determined that: 1) The personal files of Mr. Hoover and the official confidential files were maintained separately, and 2) there were no FBI files removed from the Justice building (p. 102). The results of this inquiry, as reported to the Senate Select Committee on Intelligence, are reprinted at pages 203-205.

McDermott concedes that the "Do Not File" designation could be conducive to covering something up, but repeats that it was intended for routine or redundant information (p. 104).

McDermott testifies that the Bureau will not publish, under the Privacy Act, their "Agitator Index" or "Stop Index" as different record systems in the Federal Register because these things duplicate what is in the central filing system. The Department of Justice interprets the FOIA/PA differently than the Library of Congress (p. 121).

McDermott denies that the results of a file check on a FOIA requestor would affect the disposition of the request (p. 123).

McDermott says that there was an *Attorney General's Guidelines Committee on the Creation, Maintenance, Retention, Dissemination, and*

Destruction of Department of Justice Records. And that of course the Bureau would be subject to the findings of that committee (p.125).