

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARL L. STERN,

Plaintiff,

-v-

ELLIOT L. RICHARDSON, Attorney
General of the United States.

Defendant.

Civil Action No. 179-73

STATEMENT OF MATERIAL FACTS
PURSUANT TO LOCAL RULE 9(h)

Defendant submits the following as and for his Statement of Material Facts as to which he contends there is no genuine issue herein:

1. On March 20, 1972, plaintiff Carl L. Stern requested by letter to then Attorney General Richard G. Kleindienst that he be furnished access to the following documents:

"1) Whatever letter authorized the Federal Bureau of Investigation to establish and maintain its counter-intelligence program denominated 'COINTELPRO-New Left.'

"2) Whatever letter, if any, terminated such program.

"3) Whatever letters, if any, ordered or authorized any changes in the purpose, scope or nature of the program."

(Complaint, Exhibit A)

2. This request was finally denied on behalf of the Attorney General on January 13, 1973.

3. The materials demanded by plaintiff concern matters relating to the internal procedures of the Federal Bureau of Investigation (FBI). They contain instructions on the manner in which the FBI conducts certain investigations. Should instructions such as these become available for public inspection, the effectiveness of the operation of the FBI would be substantially impaired to the detriment of the efficient operation of the organization. To reveal material regarding the type, nature and method of conducting an investigation could require that any such inquiries be terminated and would jeopardize related efforts. (Affidavit of Special Agent Williamson, para. 3)

4. The requested documents constitute intra-agency memoranda within the meaning of Title 5, United States Code, Section 552(b)(5). FBI Headquarters must be able to freely communicate with FBI offices throughout the United States to exchange ideas and instructions without danger of public disclosure. To subject this type of material to public disclosure would inhibit communication between FBI Headquarters and offices thereby restricting the exchanges necessary for the FBI to function effectively as an investigative agency. (Id. para. 5)

5. The requested documents are contained in an investigatory file of the FBI. (Id. para. 6)

6. Disclosure of the requested documents would seriously affect the ability of the FBI to discharge its assigned responsibilities. (Id. para. 7)

HAROLD H. TITUS, JR.
United States Attorney

ARNOLD T. AIKENS
Assistant United States Attorney

MICHAEL A. KATZ
Assistant United States Attorney