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June 18, 1978

Mr. Dan Metcalfe
P.O. Box 7219
Washington, D.C. 20044

Re: Weisberg v. Webster, C.A. 78-322
Weisberg v. F.B.I., C.A. 78-420

Dear Mr. Metcalfe:

In our conversation on June 9, 1978, I indicated, as I had previously, my desire to minimize problems which will inevitably arise when the FBI excises certain materials from its Dallas and New Orleans Field Office files on the assassination of President Kennedy. In particular, I want to avoid a repetition of the long and troubled history of Mr. Weisberg's suit for Departmental records pertaining to Dr. King's assassination, Weisberg v. Department of Justice, Civil Action No. 75-1996.

Because of this concern, I wish to propose that the Office of Information and Privacy Appeals conduct a review of the first 2,500 pages of the Dallas Field Office files before any further records of the Dallas and New Orleans Field Offices are released. As I envision it, the first 2,500 pages of the Dallas files would be released to Mr. Weisberg. Mr. Weisberg would then review them to see whether, in his judgment, unjustifiable deletions have been made. Mr. Weisberg would then appeal such excisions to the Office of Information and Privacy Appeals, together with a statement of his criticisms. The Office of Information and Privacy Appeals would conduct a review of the excisions made in these 2,500 pages and, if appropriate, lay down guidelines which would apply to the processing of all Dallas and New Orleans Field Office records.

The Department has on previous occasions given the FBI guidance in the processing of files of great historical interest. (See, for example, the attached August 8, 1975 memorandum from Deputy Attorney General Harold R. Tyler, Jr. to FBI Director Clarence Kelley.) I believe my proposal will facilitate the formulation of appropriate guidelines in the above cases and save all concerned a great deal of time and trouble in the long run.

I hope that you will find that this proposal is in everybody's best interest and agree to it. If it is unacceptable to you, I would appreciate your letting me know promptly, as I will then want to file motions to this effect in both cases.

Sincerely yours,

James H. Lesar

James H. Lesar

UNITED STATES GOVERNMENT

Memorandum

TO : Clarence M. Kelley, Director
Federal Bureau of Investigation

DATE: AUG 8 - 1975

FROM : Harold R. Tyler, Jr.
Deputy Attorney General *HT*

SUBJECT: Your Request for Guidance in Processing
the Rosenberg and Hiss Files Under the
Freedom of Information Act

This is in response to your memorandum of July 28, 1975, addressed to Attorney General Levi, in which you sought specific guidance as to the release of Greenglass data and general guidance as to third party releases of investigatory records in subject cases of historical interest.

As to David and Ruth Greenglass, it is my judgment that they have no general privacy interest in any material obtained or derived from them, or pertaining to them [regardless of source], sufficient to withstand a request under the Freedom of Information Act submitted by any person. The only exception would be for material of an intimate or other purely personal nature that is wholly unrelated to the subject matter of the Rosenberg case. As a general proposition, I have concluded that the same standard applies to Julius and Ethel Rosenberg, Morton Sobell, Harry Gold, Anatoli Yakolev, Klaus Fuchs, Max Elitcher, Prof. Walter Koski, Louis Abel, Dorothy Abel, Dr. George Bernhardt, William Danziger, Elizabeth Bentley, James S. Huggins, Evelyn Cox and Ben Schneider. It may apply to Abraham Brothman, the Einsohns, Mrs. Elitcher and Oscar Vago; material from or pertaining to them should be very carefully considered by you in this regard before being withheld on privacy grounds.

With respect to the Hiss materials, I find no general privacy interest sufficient to support withholding under the amended Act as to Whittaker Chambers, Esther Chambers, Nathan Levine, Henry Julian Wadleigh, Mr. Touloukian, Dr. Meyer Schapiro, William Rosen, Hede Massing, Felix Inslerman and Burnetta Catlett. Any statements [or reports thereof] or official reports from Walter Anderson and Eunice Lincoln of the Department of State or from James Feehan and Courtland Jones of the F.B.I. should be released. Careful consideration should be given before any decision is reached to withhold, on the basis of privacy, relevant material pertaining to any of the persons identified as Communists by Whittaker Chambers in the public testimony before the House Unamerican Activities Committee on



August 3, 1948. Given the nature of the Hiss trials, all material pertaining in any way to the Woodstock typewriter, the pumpkin films, the purloined documents themselves, the incident of the transfer of the car to Mr. Rosen via the Cherner Motor Company, the incident of the oriental rug, and the purchase by Whittaker Chambers in 1937 of the "other" farm near Westminster, Maryland, should be released, if possible.

As to many of the other persons from whom information or assistance was obtained in these two cases of historical interest, it may be appropriate to delete their names when initially releasing information furnished by them. Decisions as to other persons, however, will require careful and deliberate judgments as to whether the release of their identities would constitute unwarranted invasions of their privacy.

In several prior memoranda and letters, reference has been made to the Department's Policy Regarding Investigatory Records of Historical Interest [28 C.F.R. 50.8]. Although the "letter" of that provision may have been largely overtaken by the recent amendments to the Act, the policy set forth therein of encouraging the maximum possible discretionary release of records in these historical interest cases remains the policy of the Department of Justice. I also wish to call to your attention the communication of Attorney General Levi to several persons seeking access to the "pumpkin films." A copy of one such letter is attached hereto. With the exception of materials withheld on the basis of exemption 1, because they are properly classified and cannot be declassified or sanitized, the Attorney General stated that exemptions would be invoked as to the content of the films only if there is a "compelling reason" to do so. I consider that to be the proper standard to be applied as to investigatory records in the Hiss and Rosenberg files [e.g., to protect the identity of the informant against the Rosenbergs who is still furnishing information to the F.B.I. today].

As both of us are aware, the Department has been subjected to considerable criticism over our response to requests for records from the Rosenberg and Hiss files. I hope that the guidance I have provided in this memorandum will permit these matters to be processed on a greatly expedited basis in the immediate future.