



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON, D. C. 20301

7 September 1967

MEMORANDUM FOR HONORABLE FRANK M. WOZENCRAFT
Assistant Attorney General
Office of Legal Counsel
Department of Justice

SUBJECT: FBI Report

Attached is a copy of a comment, dated 16 December 1963, offered by John McNaughton, then General Counsel of Defense, to Mr. Katzenbach, as Deputy Attorney General, with respect to a draft FBI report. Johnson has requested a copy of this for the open records of the Warren Commission.

My reactions to this request are several:

1. The Warren Commission work is sui generis, and I think that the pressures are strong to make as much information available as possible.
2. However, this type of comment seems to me to be clearly within the purview of exemption 5 of the statute and should be protected.
3. It seems that no purpose can be served by making public preliminary drafts of public documents, and a fortiori comments on drafts being the very essence of thought process should not be made public.
4. We would not, under any circumstances, release a document which refers to the FBI without clearing with the FBI.

The above adds up to "No".

I would appreciate your informal comments.

The copy is an extra and the original is probably already in Justice's files so there is no need to return it.

L. Niederlehner
Acting General Counsel

Attachment - 1