

UNITED STATES GOVERNMENT

Memorandum

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- Dep. AD Inv. _____
- Asst. Dir.:
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- Comp. Syst. _____
- Ext. Affairs _____
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- Legal Coun. _____
- Off. of Cong. & Public Affairs _____
- Director Sec'y _____

TO : Mr. Miller

DATE: 5-15-74

FROM : Legal Counsel *JM*

SUBJECT: HAROLD WEISBERG v. U. S. DEPARTMENT OF JUSTICE
FREEDOM OF INFORMATION ACT (FOIA)

ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

The U. S. Supreme Court on 5-13-74 denied certiorari in captioned suit and let stand a District of Columbia Circuit Court decision which sanctioned withholding information contained in FBI investigatory files pursuant to the FOIA.

In 1970, Harold Weisberg requested, through the Department of Justice, FBI records concerning the results of spectrographic analyses of bullets, bullet fragments, garments and other objects connected with the assassination of President Kennedy. His request was denied on the ground that the records were part of an investigatory file compiled for law enforcement purposes and exempt from disclosure pursuant to exemption (b) (7) of the FOIA.

He subsequently filed suit in the U. S. District Court, Washington, D. C., lost, and appealed to the United States Circuit Court. A three-judge panel of that Court ruled against the Government, holding that information must be disclosed from FBI investigatory files unless an ongoing investigative matter would be prejudiced thereby. The Government petitioned the Circuit Court for a hearing en banc, which was granted. The full Court affirmed the District Court opinion, interpreting exemption 7 as mandating that as long as materials were contained in investigatory files, they were exempt from public disclosure. *62-109060-7118*

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With this denial of certiorari by the Supreme Court, the FBI could operate within the statutory parameters of the FOIA even with the imminent passage of S. 2543 which will amend

*1 - ENCLASSED
UPE*

- 1 - Mr. Callahan
- 1 - Mr. Jenkins
- 1 - Mr. Miller
- 1 - Mr. Adams
- 1 - Mr. Campbell
- 1 - Mr. Cleveland
- 1 - Mr. Franck
- 1 - Mr. Gebhardt

- 1 - Mr. Jacobson
- 1 - Mr. Jamieson
- 1 - Mr. Marshall
- 1 - Mr. Thompson
- 1 - Mr. Walsh
- 1 - Mr. Wannall
- 1 - Mr. White
- 1 - Mr. Mintz

RD:law (18)

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Legal Counsel to Mr. Miller memo
Re: Harold Weisberg v. U. S. Department of Justice

that Act. It must be pointed out, however, the FBI remains
under Attorney General Order 528-73 which directs release of
our files older than 15 years to historical researchers.

RECOMMENDATION:

For information.

JCF *W* *MB* *JHM*

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