

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Rosen *R*

DATE: 8/8/56

FROM: [REDACTED]

INDEXED-59

SUBJECT: WEINAP

Tolson	
Nichols	
Boardman	
Belmont	
Mason	
Mohr	
Parsons	
Rosen	
Tamm	

Memorandum from Warren Olney II dated 8/3/56, received night of 8/7/56, forwarded a copy of a letter addressed to the White House by [REDACTED] 7/10/56, and a copy of Mr. Olney's reply.

[REDACTED] referring to the Weinberger kidnaping, complains about the "tragic mishandling of the case by the press and possibly by the police." Her letter was also signed by three of her neighbors.

By letter 8/3/56, Olney answered [REDACTED] letter which had been referred to him by the White House. He explained the difference between the jurisdiction of the Federal investigative agencies and the state and local investigative agencies, also between the jurisdiction of the Federal courts and state courts in the trial of criminal offenses. Olney states the FBI has authority to investigate violations of certain Federal laws. It does not have jurisdiction to investigate crimes, however repulsive, that violate state law only. Olney states the FBI investigates with a view of eventual prosecution in Federal court and never investigates a case for state court, which is the business of the local investigative agencies. Olney says if the FBI were to do otherwise it would not only be usurping jurisdiction without authority of law but would necessarily impede the proper state agencies.

Olney's letter says often a crime may be committed under circumstances which make it perfectly plain that state law has been violated, while at the same time the question of whether Federal law has been violated is not clear. That is the case with respect to the Weinberger kidnaping. Olney says there was not the slightest doubt from the beginning that the criminal laws of the State of New York had been violated, but there was, and still is, a serious question as to whether Federal law had been violated. That Federal law has not been violated by the kidnaper unless the child has been taken across state lines or some instrumentality of interstate commerce has been used in making a demand for ransom, or the mails used, or some other circumstance not now in evidence appears which will give the Federal courts jurisdiction.

cc: 1 - Mr. Nichols

[REDACTED]

INDEXED-59

RECORDED-11

AUG 15 1956

INDEXED-11

EX-108

59 AUG 3

SENT DIRECTOR
1956

FILES

Memorandum for Mr. Rosen

Olney's letter states for these reasons the FBI did not investigate as soon as the abduction was discovered. From the outset the FBI established close contact with the police and offered every aid that could be given, but that the FBI did not and under the law could not take over from the police the primary responsibility for the conduct of the investigation.

Olney points out that the actions of the newspapers and the police, which are the subject of [redacted] complaint, occurred during the first seven days following the kidnaping when the responsibility was exclusively that of the Nassau County Police. He points out that at the end of seven days the situation changed both legally and practically and the FBI formally entered the investigation under the presumptive clause. Olney notes that the kind of publicity and official action about which [redacted] complained immediately stopped.

Olney's letter reiterated that he wanted [redacted] and her friends who signed the letter assured that the Federal Government and the FBI in particular had no control over the course of the investigation or the publicity during the first week after the kidnaping. Olney said the failure of the FBI to enter the case during that period was not due to any callous indifference but was based on the best judgment of the FBI in the light of existing law. Olney states that it would be inappropriate for him as a Federal official to comment on the actions of state or county investigative agencies.

The above is for your information.

[redacted]

Woo

b7c