IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

HAROLD WEISBERG,

Plaintiff-Appellant

v.

DEPARTMENT OF JUSTICE,

Defendant-Appellee

No. 71-1026

COMMITTEE TO INVESTIGATE ASSASSINATIONS, INC.,

Plaintiff-Appellant

v.

DEPARTMENT OF JUSTICE,

Defendant-Appellee

No. 71-1829

SUPPLEMENTAL MEMORANDUM

This supplemental memorandum is submitted pursuant to the Court's request that the Government ascertain what restrictions regarding use the FBI placed on the documents made available to the Los Angeles District Attorney's Office for use in the prosecution of Sirham Sirhan for the murder of Senator Robert Kennedy.

The Federal Bureau of Investigation made eleven documents available to the Los Angeles District Attorney's Office. Eight of these were reports, each of which contained the following property statement on the cover page (form FD-204):

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

In addition, three letterhead memoranda were made available. One of these, dated April 24, 1969, was marked "confidential" on every page. Moreover, this memorandum contained four reports of interviews on form FD-302, each of which bears the property statement set forth above. As yet, we have been unable to ascertain what appeared on the other two memoranda. We are in the process of checking, and will inform the Court as soon as this information becomes available.

2. During the argument a question was raised regarding the length of time that must pass before an investigatory file of historical interest might be made available. We informed the Court that the Attorney General had under consideration a regulation making such information available to persons engaged in historical research. A Statement of policy, a copy of which is attached, was signed by the Attorney General on July 11, 1973, and appeared in the Federal Register on July 17, 1973. As the Statement makes plain, it is the continuing view of the Department of Justice that the materials to be released thereunder are exempt from mandatory disclosure under the Freedom of Information Act, and such disclosure is purely discretionary.

Respectfully submitted,

/s/ Walter H. Fleischer
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/s/ Barbara L. Herwig
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Washington, D. C. 20530

FD-302 (REV. 11-27-70)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription_____

Interviewed on_____ at_____ File # _____

by_____ Date dictated_____

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 1973, I served the foregoing Supplemental Memorandum upon counsel for the appellants by mailing a copy thereof, postage prepaid, to

Bernard Fensterwald, Esquire
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Washington, D. C. 20006

/s/ Barbara L. Herwig
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