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MAR 6 1974

Mr. Carl Stern
NBC News
National Broadcasting Company, Inc.
4001 Nebraska Ave., N.W.
Washington, D. C. 20016

Dear Mr. Stern:

This is in response to your letter dated January 7, 1974, appealing the denial by FBI Director Kalley of your request under the Freedom of Information Act for access to various "counter-intelligence" directives.

Upon careful consideration of your appeal I have decided to modify the denial, granting access as a matter of administrative discretion to part but not all of the requested material, as more particularly discussed under each of the items you requested, as follows:

1. Documents authorizing and defining the program "COMINTELPRO-Espionage", which is also captioned "COMINTELPRO Soviet-Satellite Intelligence": -- This material will not be made available because it is classified "Secret" pursuant to Executive Orders 10501 and 11652 and accordingly is covered by the 1st exemption in the Act, pertaining to matters required to be kept secret "in the interest of the national defense or foreign policy." In addition, release of this material would appear to violate 18 U.S.C. 793(d), which generally makes it a felony to willfully deliver "any document, writing . . . or information relating to the national defense which . . . the possessor has reason to believe could be used to the injury of the United States . . . to any person not entitled to receive it". Accordingly such material is also covered by the 3rd exemption in the Act, i.e., matters "specifically exempted from disclosure by statute".

2. Documents authorizing and defining the program "COINTELPRO -- Disruption of [White] Hate Groups": This unclassified directive is being made available to you. It consists of a 5-page memorandum dated September 2, 1964 to SAC Atlanta from Director, FBI marked "PERSONAL AND CONFIDENTIAL". The names of 26 specific Klan and hate organizations have been deleted from pages 2 and 3 of the copy being made available because these names are taken from investigatory files compiled for law enforcement purposes and are accordingly covered by the 7th exemption in the Act, and their disclosure would prejudice the operations of the FBI.

3. Documents authorizing and defining the program "COINTELPRO -- Communist Party, USA": This material is classified "Secret" and will not be made available for the reasons discussed above under item 1.

4. Documents authorizing and defining the program "COINTELPRO -- Black Extremists": This material is being made available to you on the same general basis as discussed in item 2. above. It consists of a 3-page memorandum dated August 25, 1967 and of a 6-page memorandum dated March 4, 1968, both to SAC Albany from Director FBI. The names of 6 specific organizations and 6 individuals, together with geographic or other information tending to identify them, have been deleted from the copies being made available for the same reasons as the deletions referred to in item 2. above.

5. Documents authorizing and defining the program "Socialist Workers Party -- Disruption Program": This is being made available to you on the same general basis as discussed in item 2. above. It consists of a one-page memorandum dated October 12, 1961 to SAC New York from Director FBI.

6. As to your request for documents authorizing and defining the program "Counterintelligence and Special

Operations": Despite the inclusion of these operations in the characterization of "COMTELPROS" or programs in the April 1971 terminating directive previously furnished to you, this was not a definite program and there was no directive authorizing and defining it. Instead, as the phrase "special operations" implies, there were a number of special counter-intelligence operations. We have been able to find twelve documents that appear to come within the scope of your request, in that each appears to authorize and define a special counter-intelligence operation. Nine of these twelve documents are classified "Secret" and will not be made available for the reasons discussed above under item 1. The remaining three documents are being made available to you on the same general basis as discussed in item 2. above. These documents consist of a one-page memorandum dated April 2, 1969, a three-page memorandum dated May 11, 1970, and a one-page memorandum dated December 24, 1970, all to SAC San Francisco from Director, FBI. The names of two organizations and one individual have been deleted from the copies being made available for the same reasons as the deletions referred to in item 2. above.

7. As to your request for documents directing changes in the programs and special operations, there were no such changes and accordingly there were no such documents.

3. As to your request for any documents authorizing a "counterintelligence action of any kind" subsequent to the April 28, 1971 Airtel terminating the several Cointel-pros previously furnished you: There are no documents of this nature except such documents as may authorize recent or ongoing activity oriented against intelligence or like efforts by foreign powers, generally similar to the "Espionage" material classified "Secret" as discussed in item 1. above. Any such documents fall under the applicable Executive Orders previously cited.

There are two further matters warranting comment in order to prevent possible misinterpretation of my decision.

fall within the Executive Order's requirements for classification they would also have been classified had the request for them come from, say, the State or Defense Departments instead of from you.

(b) The release to you of the records now being made available, like the release of the Cointelpro-New Left records made available to you by former Acting Attorney General Bork, should not be interpreted as necessarily indicating that this Department is in agreement with District Judge Parker's decision in your recent suit. The lower federal courts have been in disagreement among themselves on various questions under the Freedom of Information Act. Nor does my action imply that we regard the documents here involved to be essentially similar to those at issue in that suit. In fact, as my action indicates, we regard some of the documents here involved as having important differences from those earlier at issue.

By copy of this letter I am directing the FBI immediately to provide you with copies of the records being made available to you herein.

Sincerely,

Attorney General