

The FBI Would Shred the Past

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Writing in *The Nation* several months ago, I reported on the destruction of FBI field office files—in my case, after my Freedom of Information Act (FOIA) request for some of them had been received—as part of a “government-wide record destruction program.” The National Archives and Records Service had authorized this destruction “on the basis that the records are contained in Headquarters files in whole, substance, or summarization,” but material I received from other field offices that was not duplicated in files released to me from FBI Headquarters (FBIHQ) called that claim into question. (See “Catch in the Information Act,” *The Nation*, February 4.)

Recently James Awe of the FBI's Records Management Division acknowledged that three categories of field office files were not duplicated at FBIHQ:

¶“Unknown Subjects”—cases where “the perpetrator” was not discovered.

¶Cases that were never prosecuted.

¶Cases of unsubstantiated allegations or that were outside FBI jurisdiction.

Although the National Archives determined that material “of archival value” was to be found in none of these areas, it is now re-evaluating that appraisal because of

numerous complaints. Clearly many of the files already released to individuals under the Freedom of Information or Privacy Acts (FOIPA) concerned individuals who were never prosecuted or whose cases ought not to have been in the FBI's jurisdiction, but who nevertheless accumulated substantial files over the years. Those categories should be re-examined with special care, since they no doubt do—or did—contain information of interest both to historians and private citizens.

In any event, as I pointed out in my earlier article, the question of whether all the important information in the field offices had been forwarded to FBIHQ before destruction may soon become moot because the FBI has requested permission to destroy most of the old headquarters files as well, including a large number of whatever duplicates were sent in from the field. After the FBI's “Request for Records Disposition Authority” was sent to the National Archives in May 1977 James Rhoads, the Archivist of the United States, availed himself of a little, if

John Rosenberg's biography of Clifford Durr, written on a grant from the Rabinowitz Foundation, will be published by Harper & Row.

THE NATION/June 3, 1978

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record on civil liberties, and it would not satisfy the public demand—evidenced by the large number of FOIPA requests—for knowledge about the practices of our intelligence agencies.

In 1969 the National Archives established a record retention plan for the FBI that bears restatement now. After noting that most federal agencies produce very few records that merit permanent retention, it stated that “many of the records produced by the FBI relate to a number of controversial, if not important, aspects of the

history of the United States, particularly the role of the federal government in its relation to its citizens.” Acknowledging that many years would pass before these records could be made available, it concluded: “Nevertheless, the Archival value of these records will not decrease, nor will interest in them dissipate.”

It would be the height of irony to allow destruction of so many sensitive and revealing documents—as the FBI now requests—after recent events have so tellingly confirmed the accuracy of that 1969 assessment. □

ever, used provision of the law that allows him to seek the advice of Congress concerning the destruction of any documents in which there may be Congressional interest. After being passed from one committee to another for nearly a year, the FBI's request—and the Archivist's request for advice about it—have finally come to rest with Sen. James Abourezk's Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee, and a decision is expected soon.

Let it be said immediately that the FBI, like other government agencies, is responding to legislative requirements that its records system be brought up to date and cleared of material that merely documents the activities of citizens practicing their First Amendment freedoms. Further, it has been fully cooperating with the National Archives in an attempt to preserve material that is of historical value, and its pending request for permission to destroy documents lists five categories of files that would be retained permanently: (1) cases that had significant impact on law-enforcement practices; (2) cases involving "an actual or potential breakdown of public order"; (3) cases directly involving "a full-field investigation for: (a) a subversive or extremist organization, with or without foreign connections; or (b) a person or persons holding a major leadership position within such an organization"; (4) cases directly involving "a person, element or organization whose activities are deemed to pose a substantial and compelling threat to the conduct of national defense or foreign policy"; (5) cases that are significant "in terms of intensity of public interest, expressed by (a) a demonstrated interest of a Congressional committee or the Executive Office of the President, or (b) a high degree of national media attention."

Files that fall under these five categories would be forwarded to the National Archives seventy-five years after they had been closed. Apparently the emphasis will be on category 5, for Awe explained to Ronald Ostrow of the *Los Angeles Times* (March 13): "Basically, it boils down to [retaining] cases of national media attention."

Granting that the FBI is acting in good faith and that its proposal would preserve some historically valuable material, historians and other citizens concerned about the government's approach to civil liberties over the past generation and more have good reason to oppose the pending proposal and to express that opposition to Senator Abourezk before it is too late.

In support of the FBI's request, which he wrote, Awe told me that the bureau has more than 7,000 file cabinets of material and that at least 900 of them are taken up with one classification of subversive matters (the "Request for Records Disposition Authority" reveals that the FBI has 204 classification numbers in its filing system, and ten or so of them relate broadly to political dissidence). Although he cited these figures as evidence of the FBI's need for housecleaning, it can be argued in reply that historians undertaking to digest so massive a government effort would need more evidence from those 900 file cabinets, and others, than would be provided by the records of major investigations of major leaders or famous cases.

The FBI has responded that "historically significant" material would be preserved, but is it really equipped to

measure historical significance? Measure, it appears, is all it would do: the "Request for Records Disposition Authority" states that "files with five or less volumes would generally not meet the criteria for a significant investigation or case and will be destroyed after a review, to insure compliance with criteria, by an experienced employee." And even more extensive files are not guaranteed survival: "Files of more than five volumes will be reviewed by seasoned employees using their best judgment in applying the criteria for destruction or retention." (Although it is not clear, presumably the criteria referred to here are the five categories for permanent retention listed above.)

The FBI has complained of being inundated with FOIPA requests. It would be interesting to learn how many of the files they have already released run to more than five volumes. My own guess is that most of what we have learned of the FBI lately has come from files considerably smaller than that. Unless we mean to shut off the source of much valuable information about the history of the government's role in suppressing civil liberties over the past several decades, the FBI should be required to preserve much more material than is called for in its pending request.

It should be added here that under that request those 900 file cabinets of subversive material would be temporarily spared. Several of the 204 file classifications have been exempted from the request, including the all-encompassing "100"—"Subversive Matter (Individual); Internal Security (Organizations); Domestic Security Investigations." This exception is merely procedural, however; if the criteria in the current request are accepted, they will soon be applied to these files as well. (The classification numbers exempted from this request apparently were not selected on the basis of their being controversial and in need of further study, for one so spared concerns illegal wearing of uniforms, misuse of insignia, etc., including "Unauthorized Use of 'Smokey Bear' Symbol.")

In fact, the FBI's classification scheme itself raises questions. If the request to destroy documents is interpreted literally (and we must assume that it might be), the fact that a number of classifications relate to domestic security becomes increasingly important. For example, we have seen that some subversive cases would be preserved, but the request also seeks permission to destroy "Security investigative files with supporting retrieval devices after thirty years of no relevant activity." Turning to the classification list, we discover that that would include files on Sedition, Treason, Espionage, Sabotage, Extremist Matters, Foreign Counterintelligence—"Russia (formerly Internal Security) (Nationalistic Tendency-Foreign Intelligence) (Individuals and Organizations-by Country)," Security Informants, Extremist Informants, etc. Even with the "subversive or extremist organizations" whose files would presumably be preserved, one wonders whether the designations are from the various lists of the Attorneys General or the FBI's own.

In short, preserving only five-volume files on "subversive or extremist organizations" or their major leaders, would—intentionally or not—inevitably lead to a severely truncated and misleading body of evidence available to scholars attempting to document the government's