

3-10-77

Mike:

Attached are the procedures used by the Department and the Senate Select Committee (Church Committee) concerning the furnishing of material out of FBI and Justice Department files. These procedures are now in effect at least for the time being with Senator Inouye's Committee, and we have been using them informally as guidelines concerning the House Select Committee on Assassinations. They were tentatively agreed to between an oral conversation between the Department and former Chairman Downing as well as Staff Director Sprague. These procedures are about as far as you can go without giving up all the family jewels. They should be read only in the context of the kinds of the material to be given and not in the context of the amount of time the Department of Justice has to respond to a particular request.



Paul Daly

PROCEDURES

(1) The Domestic Task Force Leader* will submit periodically a list of materials, pertaining to the inquiry being conducted under S.R. 21, to which the Committee staff wishes access or of which the Committee desires delivery. Any questions as to the scope, specificity, or meaning of any portion of such list shall be identified by the Special Counsel and discussed at the time of acceptance of the list, between the DTFL and the Special Counsel.

The first such list will be delivered to the Department of Justice within 48 hours of the adoption of this procedure, and will summarize and supersede all the presently outstanding requests; this list will be in priority order, as fixed by the Committee, with fixed delivery/access dates specified. Those materials for which the Committee requests delivery or access shall be delivered to the Committee or made accessible in Room 4171 of the Hoover Building not later than within 96 hours of the date specified. The Committee Chairman and Vice Chairman shall be informed by the Attorney General, within 24 hours of receipt of each request, of any delay beyond 96 hours, the expected length of the delay, and the specific reasons for the delay. Partial access or delivery shall be proffered, by the

*Wherever used herein, the term Domestic Task Force Leader (DTFL) is understood to include the Staff Director, Chief Counsel and the Minority Counsel of the Senate Select Committee.

Bureau of/to any materials requested, while the balance of such materials are being prepared. A partial proffer shall not extend the time of full response set forth herein.

These procedures shall apply to all matters covered by paragraph 1. In the event of a specific problem arising with the applicability of these procedures to any matters in current litigation or any matters in which criminal prosecution is pending, or any matter which the Attorney General shall specifically designate as extraordinarily sensitive, a special procedure shall be undertaken.* Such specific problem areas shall be identified by the Attorney General to the Chairman and Vice Chairman by letter upon consideration of the lists submitted pursuant to this provision. The special procedure to be followed shall be proposed, defined, adopted, and followed after consideration by the SSC of the specific problem area and pertinent inquiry and discussion at the staff level.

(2) The following procedures shall apply (a) where delivery of materials requested might jeopardize FBI sensitive sources or ongoing operations, or (b) where the Domestic Task Force Leader requests access to materials, rather than delivery to the SSC.

*No restriction of currently operational arrangements is intended under this provision.

(3) The Department will furnish access at the Hoover Building in Room 4171 to those materials requested:

(a) only to the members of the Committee, where it is determined by the Attorney General that the materials involve peculiarly sensitive foreign intelligence sources or peculiarly sensitive ongoing foreign intelligence operations.

(b) In all other cases, to the appropriately cleared staff who will have access to all of the materials.

(c) An exception to (a) and (b) above is made for the identities of so-called "live" informants or potential informants as defined in the FBI Manual of Instructions as to which no access will be furnished unless the identity of the individual as an informant or potential informant has already been made known to the Committee, or unless the Attorney General, the Chairman and Vice Chairman, jointly agree on the limited disclosure of such identities to the Chairman and Vice Chairman.

(d) As to other information which would identify persons, as sources, who have provided or continue to provide information to the FBI, and as to whose identity the FBI has undertaken an obligation of confidentiality, the Committee and its staff shall preserve the confidentiality and shall make no use* which would impair the confidentiality

*Examples of prohibited use are:

- (1) interviews of the source, as source
- (2) interviews or inquiries that would disclose the fact that identity of a confidential source was made known to the staff.
- (3) public disclosure.

of this class of information to which access has been given, unless the identity of the individual as a source has already been made known to the Committee, or unless such information appears in materials which have been screened by the FBI as provided in paragraph 6 below.

(4) Those materials to which the staff has access may be reviewed and studied in Room 4171 of the Hoover Building and such notes may be taken as deemed appropriate by the staff.

(5) The Committee staff shall select from these materials to which access is herein provided, those materials which it deems pertinent to the Committee's inquiries and necessary for delivery to the Committee's offices.

(6) The Bureau shall make copies of such materials as are specified by the staff under the provisions of (5) above for transfer to the Committee's offices.

(a) Before the copies of such materials are taken to the Committee's offices, the Bureau shall, within 24 hours of the selection, make appropriate excisions and paraphrases of information which might, if inadvertently disclosed, endanger sensitive FBI sources or sensitive ongoing operations.

(b) If the Task Force Leader has any objections to the excisions or paraphrases, the materials in issue will be forthwith conveyed by the Bureau, with a written statement of its grounds for its position, to the Special Counsel who shall resolve the matter by negotiation within 24 hours.

(c) In the event the matter is not resolved within 24 hours, the Special Counsel shall submit the matter forthwith to the Attorney General who shall notify the Chairman forthwith and arrange for an appropriate disposition.

(7) The Committee staff may remove to the office of SSC for appropriate use, any notes which they may make upon review of material screened by the FBI, as provided in (6) above, without such notes being reviewed by the Bureau. The Committee staff may remove notes on unscreened materials only if such notes are reviewed and cleared by the Bureau under the provisions of (6) (a) thru (c) above.

(8) The staff and the members of the Committee may examine the original materials to which the staff has been given access as extensively as necessary, in the Hoover Building at Room 4171, during normal FBI business hours; upon reasonable notice, special arrangements may be made for access at other times.

(9) These procedures are adopted subject to satisfactory experience in implementation. If after a fair trial the procedures herein do not operate suitably in the view of either the SSC or the Attorney General, the procedures may be unilaterally set aside by either the SSC or the Attorney General and other appropriate and suitable methods of procedure undertaken.