

Freeing the Rosenberg Files

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A QUARTER-CENTURY after the fact, the government is finally opening up many of its confidential files on Alger Hiss and Julius and Ethel Rosenberg. Even partial disclosures on these controversial cases have been very slow to come. The FBI, especially, has stubbornly resisted the freedom-of-information actions brought by Smith College history professor Allen Weinstein and more recently by Mr. Hiss and Michael and Robert Meeropol, the Rosenbergs' sons. Even after Attorney General Edward H. Levi and Deputy Attorney General Harold R. Tyler Jr. last summer ordered many records released, the FBI continued its foot-dragging, leading federal judges to impose strict timetables for delivery of the documents. Finally, this week the bureau announced that almost 30,000 pages on the Rosenbergs have been sanitized and are ready for release—as soon as someone pays \$23,451.80 in search and copying fees.

It is easy to assume that the FBI has made these disclosures so difficult because something embarrassing is lurking in the files. That may be so, but a more general protective instinct is also involved. As Chief U.S. District Judge William B. Jones remarked last month, the FBI and other agencies simply "don't like the Freedom of Information Act." Some elements in the bureau seem to take the view that no case is ever really, finally closed, and that once-sensitive files should therefore remain secret till the end of time.

In contrast, Mr. Levi and Mr. Tyler are much more sensitive to the spirit, as well as the letter, of the Freedom of Information Act. They recognize that at some point after an important case has been concluded, the original justifications for investigative secrecy do fade and the record should be regarded as a historical resource, to be disclosed except where a compelling claim for non-disclosure persists. Some materials, such as grand jury testimony or the identity of informers who are still alive, may legitimately be kept secret for many years. But such exceptions to the disclosure principle should be made sparingly and consistently. The Rosenberg and Hiss documents already released suggest that various arms of the Justice Department are using

different standards on what to withhold. It would be useful if the Attorney General and his deputy, with their enlightened approach to the question, could set down some general rules.

The matter of search fees is another troublesome point. The law provides that those requesting information should pay the costs of finding it—although the charges may be waived. That is equitable when the material involved is quite obscure, or interesting only to a few individuals or companies. But where information of general importance or widespread public interest is involved, it makes less sense to require the first user to pay the whole price. In the Rosenberg case, for instance, the Meeropol brothers or someone else may have to hand over \$20,458 in search fees—to make the FBI's records available to any journalist, historian or other citizen who wants to come in and read the files for free, or pay \$2993.80 for copies. Thus taking the initiative is really an act of charity toward everyone further back in line. In such cases the costs should be apportioned among all users of the resources, or waived by the government—as the law permits—on the ground that no citizen should have to pay to look at public records with real historical worth. Since this problem is bound to come up many times, perhaps a panel of officials or archivists should start addressing it now.

For all the problems that have been illuminated along the way, the gradual release of the Rosenberg and Hiss records shows that the Freedom of Information Act does work. It is of course impossible to predict what those voluminous files may hold; the contents may well disappoint people who seek to vindicate either the various defendants or the government. But even if the documents only provide new ammunition for old arguments, the public interest will have been served. A free society, after all, needs to be informed not only about its past glories and triumphs, but also about the less pleasant and comfortable aspects of its history. The greatest gains come not from retrospective verdicts on individuals, but from a deeper understanding of the impulses and conflicts that so troubled the nation not so very long ago.