

# Opening F.B.I. Files

By Walter Schneir

PLEASANTVILLE, N. Y.—A little-known casualty of Richard M. Nixon's "Saturday night massacre" was a remarkable policy decision to open the Federal Bureau of Investigation files on Alger Hiss, Julius and Ethel Rosenberg and Morton Sobell, and other controversial cold war cases.

When Attorney General Elliot L. Richardson resigned rather than obey Mr. Nixon's order to dismiss the Watergate special prosecutor, Archibald Cox, he left behind at the Justice Department a directive that promised answers to many questions about F.B.I. activities during the McCarthy era.

When Mr. Richardson assumed office, one of his first steps, in July, 1973, was to resolve a long-standing controversy regarding the F.B.I.'s failure to comply with the spirit of the 1966 Freedom of Information Act.

The bureau had adamantly refused requests from scholars and journalists to release its old records, arguing that the act exempted such investigative material from mandatory disclosure. The American Civil Liberties Union filed a suit, still pending, on behalf of a Smith College history professor, Allen Weinstein, who is working on a book on the Hiss case, demanding access to the Hiss and Rosenberg files.

Taking advantage of a temporary power vacuum within the F.B.I., Mr. Richardson ordered the bureau to make available to persons engaged in historical research inactive investigative files more than 15 years old, "subject to deletions to the minimum extent necessary."

The newly appointed F.B.I. director, Clarence M. Kelley, appeared to be complying with the order. He set up a special Freedom of Information unit to process requests for material and informed the A.C.L.U. that the Hiss and Rosenberg files would be opened, with the first installments of material to be turned over shortly.

The full implications of the decision probably were realized by only a few. Many aspects of the domestic side of the cold war era and of the F.B.I.'s actions during this period have been closed to scrutiny. Mr. Richardson's order would have made available vital primary-source material. But it soon became clear that the Justice Department and F.B.I. were renegeing.

The situation today, 17 months after Mr. Richardson issued his directive, is that Professor Weinstein has received 250 pages out of the F.B.I.'s 53,000-page Hiss file, all of it almost unusable because of heavy editing and deletions. Of the Rosenberg material, the F.B.I. has yet to release a single page. Asked why by a reporter, an F.B.I. agent replied, "It is a special case."

Attorney General William B. Saxbe

recently informed John H. F. Shattuck, counsel for the A.C.L.U., that the determination of what F.B.I. material should be made public has been delegated to F.B.I. chief Kelley. By this procedure, Mr. Saxbe has in effect rescinded Mr. Richardson's new policy.

Mr. Saxbe further stated that Mr. Kelley had "decided that F.B.I. reports of interviews with witnesses who testified at the Hiss and Rosenberg trials cannot be released." Yet in the Rosenberg-Sobell case, where no substantive documentary evidence proving guilt or even the occurrence of a crime was offered by the prosecution, it is precisely these F.B.I. "interviews with witnesses" that are essential to any effort to adduce the truth about this affair. The Rosenbergs, who were executed, and Mr. Sobell were convicted in 1951 of conspiracy to commit espionage.

Despite claimed concern by Mr. Saxbe about the privacy of these witnesses, a number of them are dead and the names of others are well-known from their testimony at trials

and Congressional hearings and mentions of them in scores of books.

So the F.B.I. still keeps the records of its past behavior tightly locked. Meanwhile, President Ford vetoed new amendments to the Freedom of Information Act that would have made Government information more accessible to researchers. Following Mr. Nixon's "Saturday night massacre" public and news media pressure halted an arrogant attempt to cover up Watergate. If similar pressure could be brought to bear now, perhaps the F.B.I.'s blatant cover-up of the 1950's also might be ended. A good start was Congress's overriding of the veto.

Walter Schneir is co-author, with Miriam Schneir, of "Invitation to an Inquest: Reopening the Rosenberg 'Atom Spy' Case."