

File #:

62-AX-217

Serial Scope:

1 thru 20

**DO NOT
DESTROY**
FOIPA# N/A

NR038 WA CODE

448PM URGENT 5-2-75 WGM

TO ALEXANDRIA

BALTIMORE

NEW HAVEN

NEWARK

OMAHA

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

CAPTIONED MATTER PERTAINS TO BUREAU'S HANDLING OF REQUESTS FROM SENATE AND HOUSE SELECT COMMITTEES TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES. IN CONNECTION WITH WORK OF THESE COMMITTEES, STAFF MEMBERS MAY INTERVIEW CURRENT AND FORMER FBI EMPLOYEES. THE SENATE SELECT COMMITTEE (SSC) STAFF HAS ALREADY INTERVIEWED SOME FORMER EMPLOYEES. NEWARK TELETYPE APRIL 30 LAST "ADMINISTRATIVE INQUIRY; 1964 DEMOCRATIC PARTY NOMINATING CONVENTION, ATLANTIC CITY, NEW JERSEY," REPORTED ADVICE FROM FORMER SPECIAL AGENT JOHN P. DEVLIN THAT HE HAD BEEN INTERVIEWED BY

OJA
62 new

62-217-*(initials)*

SEARCHED	INDEXED <i>(initials)</i>
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FBI ALEXANDRIA	

(initials)

PAGE TWO

MICHAEL T. EPSTEIN, SSC STAFF MEMBER, CONCERNING DEVLIN'S PART
IN FBI'S ACTIVITIES AT DEMOCRATIC CONVENTION, ATLANTIC CITY,
AUGUST 22-28, 1964.

SET OUT BELOW ARE NAMES AND LAST KNOWN ADDRESSES OF FORMER
BUREAU AGENTS ASSIGNED TO SPECIAL SQUAD AT ATLANTIC CITY,
AUGUST, 1964. EACH OF THESE FORMER AGENTS IS TO BE IMMEDIATELY
CONTACTED AND ALERTED THAT THEY MIGHT BE APPROACHED BY THE SSC
STAFF. THEY ARE NOT, REPEAT NOT, TO BE ADVISED OF THE AREA WHICH
MAY BE COVERED IN ANY INTERVIEW OF THEM BY THE SSC. THEY SHOULD,
HOWEVER, BE TOLD THAT IN THE EVENT THEY ARE INTERVIEWED AND DURING
THE COURSE OF SAME, QUESTIONS ARE ASKED WHICH RELATE TO SENSITIVE
BUREAU OPERATIONS, THEY CAN REQUEST THAT AN FBI AGENT BE PRESENT.
CONTACTS WITH THESE FORMER AGENTS TO BE HANDLED PERSONALLY BY
SAC OR ASAC. IN THE EVENT THIS NOT FEASIBLE FOR JUST CAUSE, TO
BE HANDLED BY A SENIOR SUPERVISOR.

IMMEDIATELY AFTER CONTACT, RESULTS SHOULD BE FURNISHED BUREAU
BY TELETYPE IN ABOVE CAPTION. IF A FORMER AGENT NO LONGER IN
YOUR TERRITORY OR TEMPORARILY AWAY, SET OUT LEAD TO OTHER OFFICE
IMMEDIATELY WITH COPY TO FBIHQ.

NEWARK SHOULD INCLUDE RECONTACT WITH DEVLIN FOR PURPOSE

PAGE THREE

INDICATED ABOVE AND ALSO FURNISH BUREAU ANY INFORMATION DEVLIN
MAY HAVE FURNISHED YOUR OFFICE IN ADDITION TO THAT IN YOUR TELETYPE.

ALEXANDRIA: HAROLD P. LEINBAUGH, 1643 NORTH VAN DORN,
ALEXANDRIA. WILLIAM P. GEORGE, 8338 WAGON WHEEL ROAD, ALEXANDRIA
BALTIMORE: DONALD G. HANNING, 18 OXFORD STREET, CHEVY CHASE
NEW HAVEN: HOBSON H. ADCOCK, 65 GLENBROOK ROAD, STAMFORD,
CONNECTICUT.

NEWARK: LEO THOMAS CLARK, 1421 ATLANTIC AVENUE,
ATLANTIC CITY. JOHN PATRICK DEVLIN, 39 BENNINGTON ROAD,
LIVINGSTON, NEW JERSEY. HOWARD J. WILSON, 30 CAMPBELL ROAD,
SHORT HILLS, NEW JERSEY.

OMAHA: JOHN J. QUINN, IOWA LAW ENFORCEMENT ACADEMY,
JOHNSTON, IOWA.

END

RETURN TO TALK ON THE CONFERENCE

NR074 WA CODE

10:18PM NITEL 5-2-75 MSE

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

^o
SENSTUDY 75

CAPTIONED MATTER PERTAINS TO BUREAU'S HANDLING OF REQUESTS FROM SENATE AND HOUSE SELECT COMMITTEES TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES. IN CONNECTION WITH WORK OF THESE COMMITTEES, STAFF MEMBERS MAY SEEK TO INTERVIEW CURRENT AND FORMER FBI EMPLOYEES.

RECENTLY, THE SENATE SELECT COMMITTEE (SSC) STAFF HAS INTERVIEWED SEVERAL FORMER EMPLOYEES AND IT IS ANTICIPATED THAT MANY MORE SUCH PERSONNEL WPLL BE CONTACTED.

THE FBI HAS PLEDGED FULL COOPERATION WITH THE COMMITTEE AND WE WISH TO ASSIST AND FACILITATE ANY INVESTIGATIONS UNDERTAKEN BY THE COMMITTEE WITH RESPECT TO THE FBI. HOWEVER, WE DO HAVE AN OBLIGATION TO INSURE THAT SENSITIVE SOURCES AND METHODS AND ONGOING SENSITIVE INVESTIGATIONS ARE FULLY

62-217-2

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FBI - NEW YORK	

West PW

PAGE TWO

PROTECTED. SHOULD ANY FORMER EMPLOYEE CONTACT YOUR OFFICE AND HAVE ANY QUESTION REGARDING HIS OBLIGATION NOT TO DIVULGE INFORMATION OBTAINED BY VIRTUE OF HIS PAST FBI EMPLOYMENT, HE SHOULD BE INSTRUCTED TO CONTACT LEGAL COUNSEL, FBIHQ, BY COLLECT CALL. YOUR CONVERSATIONS WITH FORMER EMPLOYEES MUST BE IN KEEPING WITH OUR PLEDGE. IT IS BELIEVED SUCH A PROCEDURE WOULD INSURE PROPER PROTECTION AND ALSO FACILITATE THE WORK OF THE SSC.

THE ABOVE PROCEDURE ALSO APPLIES TO CURRENT EMPLOYEES OF YOUR OFFICE. HOWEVER, CONTACT WITH THE LEGAL COUNSEL SHOULD BE HANDLED THROUGH THE SAC.

END

FBIAX VAN CLR FOR TWO

NR003 AX CODE

11:43PM NITEL MAY 3, 1975 WMM

TO DIRECTOR (62-116395)

FROM ALEXANDRIA (62-NEW) (P)

SENSTUDY 75

RE BUTEL MAY 2, 1975.

FORMER BUREAU AGENT WILLIAM P. GEORGE, 6302 GOLF COURSE SQUARE, ALEXANDRIA, VA., CONTACTED MAY 2, 1975 AND STATED THAT IN EVENT HE IS CONTACTED BY STAFF OF SENATE OR HOUSE COMMITTEES, HE MAY REFUSE TO BE INTERVIEWED, BUT IF HE CONSENTS TO BE INTERVIEWED HE WILL REQUEST PRESENCE OF FBI AGENT, IF QUESTIONS ARE ASKED RELATIVE TO SENSATIVE ~~X~~ BUREAU OPERATIONS.

INQUIRY AT RESIDENCE OF HAROLD P. LEINBAUGH, 1160 WIMBLEDON DRIVE, MC LEAN, VA., ⁸⁹³⁻⁵²¹⁵ ON MAY 2, 1975, REVEALS THAT HE IS PRESENTLY AT CLUB MEDITERRANEAN, HOTEL CARAVELLE, ST. ANNE, GUADALUPE, FRENCH WEST INDIES. HE IS EXPECTED TO RETURN TO HIS RESIDENCE ON MAY 18, 1975.

BUREAU IS REQUESTED TO ADVISE IF ALEXANDRIA SHOULD CONTACT LEINBAUGH UPON HIS RETURN.

END.

TJT FBI WASH DC CLR

62-217-3

SEARCHED	INDEXED
SERIALIZED <i>BW</i>	FILED <i>BW</i>

West SW

NR036 WA CODE

4:10PM NITEL 5-20-75 PAW

TO ALL SACS

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY E. 75.

REBUTEL MAY 2, 1975.

IN CONNECTION WITH WORK OF THE SENATE AND HOUSE SELECT COMMITTEES, ITS REPRESENTATIVES MAY CONTACT YOUR OFFICE FOR INFORMATION.

IN ONE RECENT INSTANCE, A REPRESENTATIVE OF THE SENATE SELECT COMMITTEE TELEPHONICALLY INQUIRED AS TO IDENTITY OF SAC IN A PARTICULAR OFFICE DURING 1970.

IN HANDLING SUCH INQUIRIES INSURE ESTABLISHING BONA FIDES OF REPRESENTATIVE BY SHOW OF CREDENTIALS ON PERSONAL CONTACT OR, IF TELEPHONIC CONTACT, BY TELEPHONING BACK TO COMMITTEE. UNLESS INFORMATION IS OF A PUBLIC NATURE, AS IN THE INSTANCE CITED ABOVE, OBTAIN FBIHQ CLEARANCE PRIOR TO SUPPLYING ANY INFORMATION. FBIHQ MUST BE EXPEDITIOUSLY ADVISED OF ALL INFORMATION FURNISHED.

END

62-217-4

SEARCHED <i>[initials]</i>	INDEXED <i>[initials]</i>
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MAY 20 1975	
FBI - ALEXANDRIA	

[Handwritten signatures and initials]

F B I

Date: 5/20/75

OK

Transmit the following in CODED
(Type in plaintext or code)

Via TELETYPE NITEL
(Priority)

TO: DIRECTOR (62-116395) 10¹⁴ P MAN
FROM: ALEXANDRIA (62-217)(RUC)
SENSTUDY 75

RE ALEXANDRIA TELETYPE TO BUREAU, MAY 3, 1975.
FORMER BUREAU AGENT HAROLD P. LEINBAUGH, 1160 WIMBLEDON DRIVE, MC LEAN, VIRGINIA, CONTACTED ON MAY 20, 1975, IN ACCORDANCE WITH BUREAU INSTRUCTIONS. LEINBAUGH STATED HIS FEELING AT PRESENT IS THAT HE WILL REFUSE TO BE INTERVIEWED BY STAFF MEMBER OF CONGRESSIONAL COMMITTEE BUT IN EVENT HE CONSENTS TO INTERVIEW AND SENSITIVE MATTERS ARISE, HE WILL REQUEST PRESENCE OF BUREAU AGENT OR CONTACT LEGAL COUNSEL AT FBIHQ.
END.

① Alexandria
SWW:krl
(1) *pel*

Stripped
BW

RUC
aw

62-217-5
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SERIALIZED FILED

Approved: HT/SW

Sent _____

M

Per Vantino

Special Agent in Charge

NR058 WA CODE

9:08PM NITEL 5/28/75 PLD

TO ALEXANDRIA

ATLANTA

BALTIMORE

CHARLOTTE

CHICAGO

KANSAS CITY

LITTLE ROCK

NEWARK

OMAHA

PHILADELPHIA

PORTLAND

PHOENIX

TAMPA

WASHINGTON FIELD

FROM DIRECTOR (62-116395)

PERSONAL ATTENTION

SENSTUDY 75

REBUTEL MAY 2, 1975.

INQUIRIES MADE OF BUREAU BY SENATE SELECT COMMITTEE (SSC) CONCERNING A NUMBER OF PRESENT AND FORMER FBI EMPLOYEES, INCLUDING THEIR CURRENT WHEREABOUTS, SUGGESTS THEY MAY BE INTERVIEWED BY SSC STAFF, EXACT SUBJECT MATTERS FOR INTERVIEWS UNKNOWN. SET OUT BELOW ARE NAMES AND LAST KNOWN ADDRESSES OF FORMER BUREAU EMPLOYEES AND OFFICE OF ASSIGNMENT OF INCUMBENTS, ALL OF WHOM SSC HAS INQUIRED ABOUT.

EACH OF THESE FORMER EMPLOYEES IS TO BE IMMEDIATELY CON-

Re/O
J
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62-217-6

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MAH

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TACTED AND ALERTED THAT HE (SHE) MIGHT BE APPROACHED BY THE SSC STAFF, SUBJECT MATTER UNKNOWN. THEY SHOULD BE TOLD THAT IN THE EVENT THEY ARE INTERVIEWED AND DURING THE COURSE OF SAME, QUESTIONS ARE ASKED WHICH RELATE TO SENSITIVE BUREAU OPERATIONS (SOURCES, METHODS, TECHNIQUES, THIRD AGENCY RULE, AND ONGOING INVESTIGATIONS), THEY MAY REQUEST THAT AN FBI AGENT BE PRESENT. BUREAU WILL PROVIDE AGENT ON REQUEST OF INTERVIEWEE. AS A PRELUDE TO INTERVIEW, THE FORMER EMPLOYEE MAY, AFTER BEING CONTACTED BY SSC STAFF, CONTACT BUREAU'S LEGAL COUNSEL DIVISION BY COLLECT CALL FOR FULL INFORMATION TO ASSIST HIM, INCLUDING OBLIGATIONS AS TO CONFIDENTIALITY OF INFORMATION ACQUIRED AS FBI EMPLOYEE. IT IS EMPHASIZED THAT BUREAU'S OFFER OF ASSISTANCE IS NOT INTENDED TO IMPEDE SSC WORK BUT IS DONE AS COOPERATIVE GESTURE AND TO SAFEGUARD SENSITIVE BUREAU INFORMATION. CONTACTS WITH THESE FORMER EMPLOYEES TO BE HANDLED PERSONALLY BY SAC OR ASAC. IN EVENT THIS NOT FEASIBLE FOR JUST CAUSE, TO BE HANDLED BY A SENIOR SUPERVISOR.

INCUMBENT EMPLOYEES TO BE ADVISED THAT IF CONTACTED BY SSC STAFF FOR INTERVIEW, LEGAL COUNSEL DIVISION TO BE IMMEDIATELY

PAGE THREE

NOTIFIED THROUGH SAC.

IMMEDIATELY AFTER CONTACT, RESULTS SHOULD BE FURNISHED BUREAU BY TELETYPE IN ABOVE CAPTION. IF A FORMER EMPLOYEE NO LONGER IN YOUR TERRITORY OR TEMPORARILY AWAY, SET OUT LEAD TO OTHER OFFICE IMMEDIATELY WITH COPY TO FBI HEADQUARTERS.

ALEXANDRIA: COURTLAND J. JONES, 6607 N. 29TH STREET, ARLINGTON, VA.; ROBERT G. KUNKEL, SAC; BERNARD A. WELLS, 5311 MONTGOMERY STREET, SPRINGFIELD, VA.

ATLANTA: ALDEN F. MILLER

BALTIMORE: ERNEST H. BELTER, 616 EDNOR ROAD, SILVER SPRING, MARYLAND; STERLING B. DONAHOE, 2813 SPIRAL LANE, BOWIE, MARYLAND; ROBERT H. HAYNES, 205 NORTHMOOR DRIVE, SILVER SPRING, MARYLAND

CHARLOTTE: JOSEPH A. SIZOO, 84A PINE CRESCENT, WHISPERING PINES, NORTH CAROLINA

CHICAGO: OLGA CIESA, 10409 S. INDIANA AVENUE, CHICAGO, ILLINOIS

KANSAS CITY: BILL D. WILLIAMS, SAC

LITTLE ROCK: JOHN J. CREAMER, JR., ASAC

NEWARK: JOHN J. CONNOLLY; RITA AGNES AMBROSIO, 1604 JOHN STREET, FORT LEE, NEW JERSEY; RALPH W. BACHMAN,

PAGE FOUR

610 NORWOOD DRIVE, WESTFIELD, NEW JERSEY; KARL L. BROUSE,
5 BURRINGTON GORGE, WESTFIELD, NEW JERSEY.

OMAHA: ROBERT L. TAGG

PHILADELPHIA: JOHN B. MEADE

PORTLAND: LEO B. APP, JR. EDGAR O. INGALLY

PHOENIX: MILDRED E. RISK, 11830 113TH DRIVE, YOUNGTOWN,

ARIZONA

TAMPA: MICHAEL J. ROZAMUS, 6509 GULF DRIVE, HOLMES BEACH,

FLORIDA

WFO: JAMES J. GAFFNEY; ELMER L. TODD

COPY TO ROME, WITH ITS EMPLOYEES NAMED, BY MAIL.

END

FBIAX VAN CLR

05

F B I

Date: 5/29/75

Transmit the following in _____ CODE
(Type in plaintext or code)

Via TELETYPE _____ URGENT
(Priority)

TO: DIRECTOR (62-116395) **TSY**
FROM: SAC, ALEXANDRIA (62-217) (RUC)

SENSTUDY 75.

REBUTEL TO ALEXANDRIA, MAY 28, 1975.

ON MAY 29, 1975, FORMER EMPLOYEES COURTLAND J. JONES AND BERNARD A. WELLS WERE CONTACTED BY ASAC MICHAEL A. MORROW, IN ACCORDANCE WITH BUREAU INSTRUCTIONS, AND FURNISHED INFORMATION SET OUT IN REFERENCED TELETYPE.

END.

1 - Alexandria
MAM:IAT

RUC

62-217-7
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(1)

Approved: **K/MAM**
Special Agent in Charge

Sent **3:30/P** M Per **DKL**



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 28, 1975

MEMORANDUM TO ALL EMPLOYEES

RE: INTERVIEWS OF FBI EMPLOYEES

All employees are advised that Congress is conducting an inquiry into activities of the Federal Bureau of Investigation. Congressional staff members are conducting interviews of former and current FBI employees. This Bureau has pledged its cooperation with the Congress.

You are reminded of the FBI Employment Agreement (copy attached) with which you agreed to comply during your employment in the FBI and following termination of such employment.

Also, you are reminded of Title 28, Code of Federal Regulations, Section 16.22 (copy attached), which reads as follows:

"No employee or former employee of the Department of Justice shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department or disclose any information relating to material contained in the files of the Department, or disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without prior approval of the appropriate Department official or the Attorney General in accordance with Section 16.24."

Also, you are reminded of Department of Justice Order Number 116-56, dated May 15, 1956, (copy attached) which, among other things, requires an employee upon the completion of his testimony to prepare a memorandum outlining his testimony.

Our cooperative efforts, of course, must be consistent with the above cited authority. Therefore, if you are contacted for purpose of interview or testimony you are to request approval as required by the Employment Agreement and await authorization before furnishing information, testimony, or record material. 62-217-8

Enclosures (3)

Clarence M. Kelley
Clarence M. Kelley
Director

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EMPLOYMENT AGREEMENT

As consideration for employment in the Federal Bureau of Investigation (FBI), United States Department of Justice, and as a condition for continued employment, I hereby declare that I intend to be governed by and I will comply with the following provisions:

(1) That I am hereby advised and I understand that Federal law such as Title 18, United States Code, Sections 793, 794, and 798; Order of the President of the United States (Executive Order 11652); and regulations issued by the Attorney General of the United States (28 Code of Federal Regulations, Sections 16.21 through 16.26) prohibit loss, misuse, or unauthorized disclosure or production of national security information, other classified information and other nonclassified information in the files of the FBI;

(2) I understand that unauthorized disclosure of information in the files of the FBI or information I may acquire as an employee of the FBI could result in impairment of national security, place human life in jeopardy, or result in the denial of due process to a person or persons who are subjects of an FBI investigation, or prevent the FBI from effectively discharging its responsibilities. I understand the need for this secrecy agreement; therefore, as consideration for employment I agree that I will never divulge, publish, or reveal either by word or conduct, or by other means disclose to any unauthorized recipient without official written authorization by the Director of the FBI or his delegate, any information from the investigatory files of the FBI or any information relating to material contained in the files, or disclose any information or produce any material acquired as a part of the performance of my official duties or because of my official status. The burden is on me to determine, prior to disclosure, whether information may be disclosed and in this regard I agree to request approval of the Director of the FBI in each such instance by presenting the full text of my proposed disclosure in writing to the Director of the FBI at least thirty (30) days prior to disclosure. I understand that this agreement is not intended to apply to information which has been placed in the public domain or to prevent me from writing or speaking about the FBI but it is intended to prevent disclosure of information where disclosure would be contrary to law, regulation or public policy. I agree the Director of the FBI is in a better position than I to make that determination;

(3) I agree that all information acquired by me in connection with my official duties with the FBI and all official material to which I have access remains the property of the United States of America, and I will surrender upon demand by the Director of the FBI or his delegate, or upon separation from the FBI, any material relating to such information or property in my possession;

(4) That I understand unauthorized disclosure may be a violation of Federal law and prosecuted as a criminal offense and in addition to this agreement may be enforced by means of an injunction or other civil remedy.

I accept the above provisions as conditions for my employment and continued employment in the FBI. I agree to comply with these provisions both during my employment in the FBI and following termination of such employment.

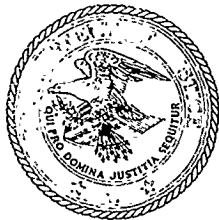
(Signature)

(Type or print name)

Witnessed and accepted in behalf of the Director, FBI, on

_____, 19____, by _____

(Signature)



Office of the Attorney General
Washington, D. C. 20530

January 18, 1973

ORDER NO. 501-73

RULES AND REGULATIONS

**Title 28—JUDICIAL
ADMINISTRATION**

Chapter I—Department of Justice

[Order 501-73]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart B—Production or Disclosure in Response to Subpenas or Demands of Courts or Other Authorities

This order delegates to certain Department of Justice officials the authority to approve the production or disclosure of material or information contained in Department files, or information or material acquired by a person while employed by the Department. It applies where a subpoena, order or other demand of a court or other authority, such as an administrative agency, is issued for the production or disclosure of such information.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, Subpart B of Part 16 of Chapter I of Title 28, Code of Federal Regulations, is revised, and its provisions renumbered, to read as follows:

Subpart B—Production or Disclosure in Response to Subpenas or Demands of Courts or Other Authorities

Sec.

- 16.21 Purpose and scope.
- 16.22 Production or disclosure prohibited unless approved by appropriate Department official.
- 16.23 Procedure in the event of a demand for production or disclosure.
- 16.24 Final action by the appropriate Department official or the Attorney General.
- 16.25 Procedure where a Department decision concerning a demand is not made prior to the time a response to the demand is required.
- 16.26 Procedure in the event of an adverse ruling.

AUTHORITY: 28 U.S.C. 509, 510 and 5 U.S.C. 301.

Subpart B—Production or Disclosure in Response to Subpenas or Demands of Courts or Other Authorities

§ 16.21 Purpose and scope.

(a) This subpart sets forth the procedures to be followed when a subpoena, order, or other demand (hereinafter referred to as a "demand") of a court or

other authority is issued for the production or disclosure of (1) any material contained in the files of the Department, (2) any information relating to material contained in the files of the Department, or (3) any information or material acquired by any person while such person was an employee of the Department as a part of the performance of his official duties or because of his official status.

(b) For purposes of this subpart, the term "employee of the Department" includes all officers and employees of the United States appointed by, or subject to the supervision, jurisdiction, or control of, the Attorney General of the United States, including U.S. attorneys, U.S. marshals, and members of the staffs of those officials.

§ 16.22 Production or disclosure prohibited unless approved by appropriate Department official.

No employee or former employee of the Department of Justice shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department or disclose any information relating to material contained in the files of the Department, or disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without prior approval of the appropriate Department official or the Attorney General in accordance with § 16.24.

§ 16.23 Procedure in the event of a demand for production or disclosure.

(a) Whenever a demand is made upon an employee or former employee of the Department for the production of material or the disclosure of information described in § 16.21(a), he shall immediately notify the U.S. attorney for the district where the issuing authority is located. The U.S. attorney shall immediately request instructions from the appropriate Department official, as designated in paragraph (b) of this section.

(b) The Department officials authorized to approve production or disclosure under this subpart are:

(1) In the event that the case or other matter which gave rise to the demanded material or information is or, if closed, was within the cognizance of a division of the Department, the Assistant Attorney General in charge of that division. This authority may be redelegated to Deputy Assistant Attorneys General.

(2) In instances of demands that are not covered by paragraph (b) (1) of this section:

(i) The Director of the Federal Bureau of Investigation, if the demand is one made on an employee or former employee of that Bureau for information or if the demand calls for the production of material from the files of that Bureau, and

(ii) The Director of the Bureau of Prisons, if the demand is one made on an employee or former employee of that Bureau for information or if the demand calls for the production of material from the files of that Bureau.

(3) In instances of demands that are not covered by paragraph (b) (1) or (2) of this section, the Deputy Attorney General.

(c) If oral testimony is sought by the demand, an affidavit, or, if that is not feasible, a statement by the party seeking the testimony or his attorney, setting forth a summary of the testimony desired, must be furnished for submission by the U.S. attorney to the appropriate Department official.

§ 16.24 Final action by the appropriate Department official or the Attorney General.

(a) If the appropriate Department official, as designated in § 16.23(b), approves a demand for the production of material or disclosure of information, he shall so notify the U.S. attorney and such other persons as circumstances may warrant.

(b) If the appropriate Department official, as designated in § 16.23(b), decides not to approve a demand for the production of material or disclosure of information, he shall immediately refer the demand to the Attorney General for decision. Upon such referral, the Attorney General shall make the final decision and give notice thereof to the U.S. attorney and such other persons as circumstances may warrant.

§ 16.25 Procedure where a Department decision concerning a demand is not made prior to the time a response to the demand is required.

If response to the demand is required before the instructions from the appropriate Department official or the Attorney General are received, the U.S. attorney or other Department attorney designated for the purpose shall appear with the employee or former employee of the Department upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the appropriate Department official and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

§ 16.26 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 16.25 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions not to produce the material or disclose the information sought, in accordance with § 16.24, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand. "United States ex rel Touhy v. Ragen," 340 U.S. 462.

Dated: January 11, 1973.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.73-1071 Filed 1-17-73;8:45 am]

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

May 15, 1956

ORDER NO. 116-56

It is the policy of the Department of Justice to extend the fullest possible cooperation to congressional committees requesting information from departmental files, interviews with department employees, testimony of department personnel, or testimony of Federal prisoners. The following procedures are prescribed in order to effectuate this policy on a basis which will be mutually satisfactory to the congressional committees and to the Department. [This order supersedes the Deputy Attorney General's Memorandum No. 5, dated March 23, 1953, and his Memorandum No. 97, dated August 5, 1954. It formalizes the Attorney General's press release of November 5, 1953, establishing procedures to permit committees of the Congress and their authorized representatives to interview and to take sworn testimony from Federal prisoners. It supplements Order No. 3229 (Revised) dated January 13, 1953, and Order No. 3464, Supplement No. 4 (Revised) dated January 13, 1953 (with Memorandum of "Authorization Under Order No. 3464 Supplement No. 4 (Revised)" dated January 13, 1953), insofar as said orders have reference to procedures to be followed in the Department's relations with congressional committees. In support of this order, reference should be had to the President's letter dated May 17, 1954, addressed to the Secretary of Defense, and to the Attorney General's Memorandum which accompanied it.]

A. REQUESTS FOR INFORMATION FROM DEPARTMENT FILES

1. Congressional committee requests for the examination of files or other confidential information should be reduced to writing, signed by the chairman of the committee, and addressed to the Deputy Attorney General, who is responsible for the coordination of our liaison with Congress and congressional committees. The request shall state the specific information sought as well as the specific objective for which it is sought. The Deputy Attorney General will forward the request to the appropriate division where a reply will be prepared and returned for the Deputy Attorney General's signature and dispatch to the chairman of the committee.

2. If the request concerns a closed case, i. e., one in which there is no litigation or administrative action pending or contemplated, the file may be made available for review in the Department, in the presence of the official or employee having custody thereof. The following procedure shall be followed in such cases:

a. The reply letter will advise the committee that the file is available for examination and set forth the name, telephone extension number, and room number of the person who will have custody of the file to be reviewed;

b. Before making the file available to the committee representative all reports and memoranda from the FBI as well as investigative reports from any other agency, will be removed from the file and not be made available for examination; provided however that if the committee representative states that it is essential that information from the FBI reports and memoranda be made available, he will be advised that the request will be considered by the Department. Thereafter a summary of the contents of the FBI reports and memoranda involved will be prepared which will not disclose investigative techniques, the identity of confidential informants, or other matters which might jeopardize the investigative operations of the FBI. This summary will be forwarded by the division to the FBI with a request for advice as to whether the FBI has any objection to examination of such summary by the committee representative. The file will not be physically relinquished from the custody of the Department. If the committee representative desires to examine investigative reports from other government agencies, contained in the files of the Department, he will be advised to direct his request to the agency whose reports are concerned.

3. If the request concerns an open case, i. e., one which litigation or administrative action is pending or contemplated, the file may not be made available for examination by the committee's representative. The following procedure shall be followed:

a. The reply letter should advise the committee that its request concerns a case in which litigation or administrative action is pending or contemplated, and state that the file cannot be made available until the case is completed; and

b. Should briefly set forth the status of the case in as much detail as is practicable and prudent without jeopardizing the pending contemplated litigation or administrative action.

B. REQUESTS FOR INTERVIEWS WITH DEPARTMENTAL PERSONNEL

1. Requests for interviews with departmental personnel regarding any official matters within the Department should be reduced to writing, signed by the chairman of the committee, and addressed to the Deputy Attorney General. When the approval of the Deputy Attorney General is given, the employee is expected to discuss such matters freely and cooperatively with the representative, subject to the limitations prescribed in A respecting open cases and data in investigative reports;

2. Upon the completion of the interview with the committee representative the employee will prepare a summary of it for the file, with a copy routed to his division head and a copy routed to the Deputy Attorney General.

C. EMPLOYEES TESTIFYING BEFORE CONGRESSIONAL COMMITTEES

1. When an employee is requested to testify before a congressional committee regarding official matters within the Department the Deputy Attorney General shall be promptly informed. When the Deputy Attorney General's approval is given the employee is expected to testify freely subject to limitations prescribed in A respecting open cases and data in investigative reports;

2. An employee subpoenaed to testify before a congressional committee on official matters within the Department shall promptly notify the Deputy Attorney General. In general he shall be guided in testifying by Order 3229 (Revised) and the President's letter of May 17, 1954, cited at the beginning of this Order.

3. Upon the completion of his testimony the employee will prepare a memorandum outlining his testimony with a copy routed to his division head and a copy routed to the Deputy Attorney General.

D. REQUESTS OF CONGRESSIONAL COMMITTEES FOR THE TESTIMONY OF FEDERAL PRISONERS

Because of the custodial hazards involved and the extent to which their public testimony may affect the discipline and well-being of the institution, it is the policy of the Department not to deliver Federal prisoners outside the penal institution in which they are incarcerated for the purpose of being interviewed or examined under oath by congressional committees. However, when it appears that no pending investigation or legal proceeding will be adversely affected thereby and that the public interest will not be otherwise adversely affected, Federal prisoners may be interviewed or examined under oath by congressional committees in the institution in which they are incarcerated under the following procedures, and with the specific advance approval of the Deputy Attorney General.

1. Arrangements for interviewing and taking of sworn testimony from a Federal prisoner by a committee of the Congress or the authorized representatives of such a committee shall be made in the form of a written request by the chairman of the committee to the Deputy Attorney General.

2. Such written request shall be made at least ten (10) days prior to the requested date for the interview and the taking of testimony and shall be accompanied by written evidence that authorization for the interview or the taking of sworn testimony was approved by vote of the committee. Such request shall contain a statement of the purpose and the subjects upon which the prisoner will be interrogated as well as the names of all persons other than the representatives of the Department of Justice who will be present.

3. A member of the interested committee of the Congress shall be present during the entire time of the interrogation.

