

cc: The Director
Mr. Ladd

December 11, 1952

PERSONAL AND ~~CONFIDENTIAL~~

VIA REGISTERED MAIL

Honorable Herbert Brownell, Jr.
140 East 19th Street
New York, New York

Dear Mr. Brownell:

I am enclosing a memorandum dealing with the confidential character of FBI files and the necessity of keeping them inviolate.

I have always opposed any public disclosure of FBI files as such a practice would not be compatible with the administration of an organization such as ours. Files, however, are in the custody of the Attorney General and the policy determination of making contents of files available is a matter within the realm of determination by the Attorney General. The constitutional and legal question of making files available is likewise a matter for policy decision by the Attorney General.

I have always felt, however, that in the event our files contained information bearing upon the question of essential justice that some way should be found either through witnesses or the testimony of our own Agents, if necessary, to insure the ends of justice would be served.

This is a problem with which I am sure you will be very quickly confronted once you assume your duties as Attorney General and I did want you to have the benefit of my views.

With best wishes and kind regards,

Sincerely yours,

J. Edgar Hoover
J. Edgar Hoover

Enclosure

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~~THE~~ CONFIDENTIAL CHARACTER OF FBI FILES

The FBI over the years has always maintained that, if it is to fully discharge the serious responsibilities imposed upon it, the confidential character of its files must be inviolate.

A cardinal principle of success for any agency having a responsibility for investigations is its ability to secure information. To do that, it must be able to maintain confidences. Any person furnishing information must have the security of knowing that when he furnishes information on a confidential basis, he will not at a later date find that confidence broken. When that occurs, the ability of the investigative agency to discharge its responsibilities in the future is materially lessened.

The public record clearly proves that the FBI because it does maintain confidences has been able to develop valuable sources of information which have a direct bearing on the internal security of the nation.

The question of opening the files of the FBI involves a grave matter of principle. These files contain complaints, allegations, facts, and statements of all persons interviewed. Depending upon the purpose of the investigation, particularly in security cases, they contain not only background data on the individual but details of his private life which bear upon the investigation. In these files also are the identities of FBI confidential sources of information and full details of investigative techniques. A file consists of a running account of all that transpires.

A file is maintained in each case because the FBI has received information, allegations, or a complaint which if proven comes within the sphere of our responsibility, in pursuance of either Congressional or Executive Directives. As the investigation progresses, copies of investigative reports are furnished United States Attorneys when prosecution is to be considered and to the appropriate officials of the Department of Justice. In other types of investigations, the reports of Special Agents are submitted to the interested agency of the government. Details and information dealing with administrative operations and confidential sources of information remain in our files. The contents of these files were never intended to

be disclosed and, unless we drastically change and circumscribe our procedures, they should not be disclosed.

The question of divulging contents of the files of agencies of government is not a new one. When confronted with the question of divulging the files of an Executive Department of the Government in 1909, the late President Theodore Roosevelt said:

"Some of these facts.....were given to the Government under the seal of secrecy and cannot be divulged and I will see to it that the word of this Government to the individual is kept sacred."

The disclosure of the contents of the files of the FBI would reveal confidential procedures and techniques. If spread upon the record, criminals, foreign agents, subversives, and others would be forewarned and would seek methods to carry out their activities by avoiding detection and thus defeat the very purposes for which the FBI was created. Each exception undermines this principle, establishes a precedent, and would inevitably result in a complete collapse of a traditional policy which has proven its soundness.

A disclosure of FBI reports would reveal the identity of confidential sources of information and, if it did not place the lives of such persons in actual jeopardy, it would certainly ruin their future value and effectiveness.

The disclosure of FBI reports would make otherwise patriotic citizens reluctant to furnish information. Already, as a result of some unfortunate disclosures of our files in court proceedings, our Special Agents frequently are being told by persons from whom they seek information that they will decline to be interviewed for fear the information will be misused by some agency other than the FBI.

In the conduct of official investigations, information of a highly restricted nature having a direct bearing upon national security often finds its way into the files which, if disclosed, would be of considerable value to a foreign power. Increasingly, we have observed efforts of a foreign power to seek intimate personal details concerning many of our leaders in Government and industry. They should not be aided by having these details made public for their use and advantage, thereby crippling the important work of the FBI.

In addition to security grounds, there are other compelling reasons why the files of the FBI should remain inviolate. For the want of a more apt comparison, our files

can be compared to the notes of a newspaper reporter before he has culled the printable material from the unprintable. The files do not consist of proven information alone. The files must be viewed as a whole. One report may allege crimes of a most despicable type, and the truth or falsity of these charges may not emerge until several reports are studied, further investigation made and the wheat separated from the chaff.

No investigative organization should have the power of discretion as to what information would be reported and what would be omitted. An item of information which appears unimportant today may provide the solution of a case when considered with information received at a later date, or it may later establish the innocence of the accused.

Should a given file be disclosed, the issue would be a far broader one than concerns the subject of the investigation. Names of persons who by force of circumstance entered into the investigation might well be innocent of any wrong. To publicize their names without the explanation of their associations would be a grave injustice. Even though they were given an opportunity to later give their explanation, the fact remains that truth seldom, if ever, catches up with charges. Any action which would "smear" innocent individuals for the rest of their lives would soon shake public confidence in an investigative organization. The fundamental principles of common decency and the application of basic American rights of fair play should never be disregarded.

The FBI has the obligation, within the scope of Federal law, not only to protect the rights, lives, and property of our citizens, but also to protect the confidential relationship of the citizen when he patriotically serves his Government by providing information essential to our security.

FBI reports set forth all details secured from a witness. If those details were disclosed, they could become subject to misinterpretation, they could be quoted out of context, or they could be used to thwart truth, distort half-truths, and misrepresent facts. The raw material, the allegations, the details of associations and compilation of information in FBI files must be considered as a whole. They are of value to an investigator in the discharge of his duty. These files were never intended to be used in any other manner and the public interest would not be served by a public disclosure of their contents.

In taking this stand, the FBI holds to the view that a principle is involved. The policy determination, however, is for the Attorney General in the discharge of his duties as delegated by the President under his constitutional powers and pursuant to his authority by Acts of Congress.

When essential justice is at issue, the FBI has never sought to hold back or conceal information, if within its power, and the ends of justice can always be served by making its Agents available as witnesses without the necessity of opening its files.