

**FOIPA Numbered Memo 32**

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**Exemption (b)(7)(E)**

Listed below are some situations where Exemption (b)(7)(E) might apply:

- 1) Location, denomination, and serial numbers of bait money (See Memo 43)
- 2) Location, activation, and type of bank security devices (See Memo 43)
- 3) Location and type of cars used in a surveillance
- 4) Mechanics of surveillance
- 5) Location of and types of aircraft used in a surveillance b2  
b7E
- 6) Model, serial number and type of recording equipment (e. g., [REDACTED] transmitters)  
{Exemption (b)(7)(E) does not provide protection for the fact that a Nagra body recorder was utilized in an investigation. }
- 7) Mechanics of installation of recording equipment
- 8) Mechanics of wire tap monitoring
- 9) Certain polygraph information (See Memo 71)
- 10) Computerized Telephone Number File (CTNF)/Telephone Application (TA)  
(See Memo 82)
- 11) Effectiveness ratings of known techniques (FD-515) (See Memo 44)
- 12) Personality profiles, equivocal death analysis (See Memo 66)
- b2/  
b7E 13) [REDACTED] (See Memo 55)
- 14) Mail Covers (limited use) (See Memo 64)
- 15) Pretext phone calls

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Exemption (j)(1)  
**Date:** March 31, 1998

**Discussion of Exemption (j)(1) - CIA Records**

Title 5, United States Code, Section 552a (j)(1) provides that "The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of Sections 553 (b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (I) if the system of records is maintained by the Central Intelligence Agency."

The Privacy Act contains two general exemptions which permit heads of specified agencies to promulgate regulations exempting certain systems of records from the Privacy Act's access and amendment requirements. The first of these is exemption (j)(1), which pertains exclusively to Central Intelligence Agency (CIA) records, permitting the Director of the CIA to exempt certain records from access under the Privacy Act and the second being Exemption (j)(2).

The Director of Central Intelligence has promulgated regulations<sup>1</sup> which provide, "Pursuant to authority granted in subsection (j) of the Act, the Director of Central Intelligence has determined to exempt from access by individuals under subsection (d) of the Act those portions and only those portions of all systems of records maintained by the CIA that: (1) consist of, pertain to, or otherwise would reveal intelligence sources and methods; and (2) consist of documents or information provided by foreign, Federal or state or other public agencies or authorities."

FOIPA personnel of the FBI will claim exemption (j)(1) only after consultation with, and on behalf of, the CIA. The claim of exemption (j)(1) will be made in conjunction with FOIA exemptions (b)(1) and (b)(3).<sup>2</sup>

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<sup>1</sup>Title 32, Code of Federal Regulations, Section 1901.61(d).

<sup>2</sup> Title 5, United States Code, Section 552a (t)(2).

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Field Offices  
**Date:** March 31, 1998

### Contacts with Field Office Personnel

Effective June 9, 1995, all requests for field office assistance, will be made by Electronic Communication (EC) or by a routing slip. ECs should be used for all requests concerning ELSUR reviews. ECs or routing slips may be utilized for requesting files to be sent to FBIHQ or to return the files to the field office(s).

Any requests for assistance which will require a substantial amount of work to be done by the field office Paralegal Specialist will now be made by EC. All ECs of this nature are to be initially coordinated with the Regional Coordinator in the Field Coordination Team (FCT) prior to transmitting the communication to the field office. Once this has been done, the EC should be directed to the attention of the field office Chief Division Counsel for appropriate handling. Requests for routine minor assistance may be made via routing slips.

Telephone requests are to be kept at a minimum. Prior to making any telephone requests, the HQ PLS is required to contact the proper Regional Coordinator in FCT and discuss the nature and need of the telephone contact or request.

### Procedures for Field Office FOIPA Requests (Searches and Referrals to FBIHQ)

Effective April 1997, the following search procedures are to be followed in handling FOIPA requests made to FBI field offices:

- When a FOIPA request is limited or directed to a particular field office, only the indices for that field office will be searched for responsive main files. No processing of auxiliary offices or FBIHQ files will be conducted, unless a requester states he desires a search of the indices for other field offices or FBIHQ, or if he actually directs his correspondence to other field offices and FBIHQ.
- When a field office searches its indices upon receipt of a FOIPA request and determines

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**Field Offices**

that one or more main files exist and the investigation(s) were "reported" to FBIHQ, the field office will follow established procedures in referring those files to FBIHQ for processing. In addition, if cross-references exist, the field office will advise the FBIHQ PLS of this fact, and it will be his or her responsibility to advise the requester in the disclosure letter of the existence and that the requester must specifically request them to be processed.

- When a field office searches its indices and only "unreported" main files and/or "cross-references" exist, the field office PLS will process the responsive file(s) and release the material directly to the requester.

**Field Office Files Transmitted to FBIHQ**  
**(Use of Green File Fronts)**

Since the field offices use the same type of file fronts as FBIHQ, on many occasions they had been confused with FBIHQ files and misplaced into the FBIHQ filing system. Therefore, it was necessary to develop special procedures for field office files being transmitted to FBIHQ so they would be visibly distinguishable from FBIHQ files. To minimize this problem, the field file front remains on the field file, but is covered by a green file front that prevents intermingling of field and FBIHQ files. Furthermore, it allows the field file front to be marked appropriately relative to FOIPA processing. No file number or other markings should be placed on the green file front so that it can be used again.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** File Classification "73"  
**Date:** March 31, 1998

**Application for Pardon After Completion  
of Sentence (APACS) Cases**  
**(File Classification "73")**

A Presidential pardon is a constitutional power of the Executive Branch under Article II, Section 2, and as such is fully discretionary with the President. Pardon applications are frequently referred to the FBI in order to conduct an **Application for Pardon After Completion of Sentence (APACS)** background investigation. Often, the subject of that investigation submits a FOIPA request for this material.

As of June 30, 1996, in conducting an APACS background investigation, Manual of Investigative Operations and Guidelines (MIOG) Part II, Section 17-5.4 and (3)(b) procedures are currently being followed in order to record interview results of persons requesting total confidentiality. These procedures are the same as followed in background investigations conducted in 67, 77, 116, 140, 161, 259 and 260 classifications. That is, all persons interviewed are advised of the appropriate provisions of the Privacy Act and, if requested, their identities and information may be kept confidential.

Therefore, in processing an APACS file of a first party requester, the PLS should consider the file exempt pursuant to (k)(2) of the Privacy Act and provide the requester all information with the exception of that material which would identify a source who furnished information under an expressed promise of confidentiality. For those cases compiled prior to June 30, 1996, an implied promise of confidentiality exists for those individuals interviewed during the course of the background investigation.

Upon completion of processing an APACS, the Pardon Attorney's Office has requested a copy of the FBI disclosure letter and a black out copy of the release made to first party requesters.

**Pardon Applications**

The FBI is authorized to release a copy of the pardon application in its entirety to first party requesters without consulting the Pardon Attorney's Office. However, continue to consult with the office with respect to any intra-departmental memoranda or information in FBI documents which originated with this office.

**F O I P A**

# MEMO 36

**M A N U A L**

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** File Classification "77"  
**Date:** March 31, 1998

**File Classification "77"**  
**DOJ and Judicial Appointment Files**

The Office of the Deputy Attorney General maintains DOJ and Federal judicial appointment files which include FBI background investigation reports. When DOJ receives a request for one of those files, the request letter will be referred to the FBI for handling. Prior procedures required that the proposed release be reviewed by any Office of Information and Privacy (OIP) attorney upon completion of processing these files. By memorandum dated 4/11/96, Richard L. Huff, Co-Director, OIP, advised that these files may now be released without OIP review.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** File Classification "92"  
**Date:** March 31, 1998

**File Classification "92"**  
**Anti-Racketeering Investigative Files**

Anti-Racketeering (AR) investigative files serve as a repository for the collection of criminal intelligence data usually gathered during an organized crime investigation. There is not a substantive criminal violation associated with this type of investigation; when a substantive violation is discovered, a separate case is opened under the appropriate character. AR files may remain open for a lengthy period of time on individuals who are known members or longtime associates of an organized crime family, or may be closed on lesser members or those no longer active. Their activities may still be monitored, nevertheless, through informants or through the investigation of other members of the same LCN family or organized crime group to which the subject belongs.

It is important, therefore, to recognize that when processing a FBIHQ or Field Office "92" file, particularly one which is closed, that it may contain information applicable to another open investigation either on the subject, one or more of his associates, or on the organized crime family to which he belongs. At this time, exemption (b)(7)(A) should be considered to protect this information.

One area often overlooked in these AR files is the intelligence information gathered as a result of surveillance by FBI Agents. Such material will show, for example, the identity of associates, meeting places, methods and frequency of travel. If released, this information could enable the subject or his associates to alter their activities and change their current method of operation, thereby frustrating the ability of the FBI to actively investigate either the subject, his associates, or the organized crime family of which he is a member. To prevent this, such information should be withheld as (b)(7)(A) material as long as it can be established that the subject is a member or a longtime key associate of an organized crime family whose activities are currently under investigation by the FBI.

While most AR files relate to individuals who are members of an organized crime family currently under investigation, some pertain to individuals who are later determined not to be members of the LCN. If the file itself does not indicate the status or affiliation of the subject, you should contact the Organized Crime Section, Criminal Investigative Division, prior to processing to establish if the subject is an LCN member or longtime key associate. You should also contact the appropriate Field Office to ascertain if there are any other pending investigations on the subject and to alert them as to the nature of the FOIPA request.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** File Classification "161"  
**Date:** March 31, 1998

**File Classification "161"**  
**Special Inquiry Investigations**

The 161 classification covers investigations requested by the White House, Congressional Committees and other Government agencies. From 1993 through May 1995, former Special Agent H. Gary Harlow from the A-1 squad at WFO, was assigned to investigate or conduct some aspect of Special Inquiry investigations. In January 1996, Harlow pled guilty to several counts of an indictment in which he was charged with, among other things, falsifying his investigations in certain 161 investigations and was sentenced in U.S. District Court, Eastern District of Virginia, Alexandria, Virginia.

Special Inquiry and General Background Investigations Unit (SIGBIU) advised that all of the applicant type investigations have not been identified wherein former SA Harlow was the investigator. As of December 31, 1996, discussions with SAs Richard Hildreth, Jr., Section Chief, and [REDACTED] Unit Chief, SIGBIU, resulted in the following procedures being implemented when processing a 161 file pursuant to a FOIPA request within the time frame of 1993 through 1995:

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1) When any portion of a 161 file has been identified by SIGBIU as having been handled by Harlow, a "Routing Slip" (example attached) should appear as the top document in the file and is to be released to the requester.

2) If there is no indication in the file that SIGBIU has reviewed the file (i.e., there is not "Routing Slip" in the file) and it contains investigative material conducted by former SA Harlow, contact [REDACTED] SIGBIU, Room 4371, Ext. [REDACTED], so that SIGBIU is made aware of that specific investigation.

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In all instances, when PLSs are processing 161 investigations which were conducted by former SA Harlow in the above time frame, his name is to be released throughout the file.



"MAINTAIN AS TOP SERIAL IN THE BELOW LISTED 161 CASE FILE"

ROUTING SLIP

April 3, 1996

To: File (161F-HQ-12345)

From: Unit Chief [REDACTED] b6  
Special Inquiry and General Background Investigations Unit (SIGBIU)  
Personnel Division

Subject: NAME  
CLASSIFICATION 161 BACKGROUND INVESTIGATION CONTAINING  
INVESTIGATION ALLEGEDLY CONDUCTED BY FORMER WMFO SPECIAL  
AGENT (SA) H. GARY HARLOW

IN VIEW OF THE INFORMATION SET FORTH BELOW, UNDER NO  
CIRCUMSTANCES IS THERE TO BE ANY FURTHER DISSEMINATION OF ANY  
INFORMATION OR DOCUMENT CONTAINED IN CAPTIONED 161 FILE WITHOUT  
PRIOR APPROVAL OF, AND COORDINATION WITH, THE SIGBIU UNIT CHIEF.

Attached is one xerox copy of those document(s) (if more than one, stapled together and considered as one enclosure) contained in captioned 161 case file reflecting investigation conducted on captioned subject by WMFO, including investigation allegedly conducted by former WMFO SA H. Gary Harlow (hereinafter "Harlow").

This 161 case file is one of many containing investigation allegedly conducted by Harlow during the time he was assigned to the A-1 squad in WMFO. Harlow is currently awaiting sentencing in U.S. District Court, Eastern District of Virginia, Alexandria, Virginia. Harlow previously plead guilty to several counts of an indictment returned in 1/96, in which he was charged with, among other things, falsifying his investigation in certain 161 cases.

Regarding captioned 161 case, it is not known if Harlow falsified any part of his investigation. If Harlow did falsify any part of his investigation, then the FBI's summary memorandum(s) dated 10/15/93, contained in captioned 161 file, as well as the document(s) enclosed herewith, contain inaccurate information. It is noted that the aforementioned summary memorandum(s) were furnished by the SIGBIU to the client entity in response to its request of the FBI to conduct a background investigation on captioned subject.

1 - WMFO (161F-HQ-12345) (Enclosure)  
(Attention: SSA [REDACTED] Squad A-1)

[REDACTED] (2)

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MEMO 38 - ATTACHMENT 1

The handling of 161 background investigations containing investigation allegedly conducted by Harlow is being addressed on a case by case basis as follows:

(A) In the event a request is received of the FBI which would involve dissemination of investigation, or documents reporting investigation, allegedly conducted by Harlow and contained in captioned 161 case file, SIGBIU will promptly initiate appropriate steps, with the assistance of WMFO, to determine if Harlow falsified any part his investigation. Based upon those findings, SIGBIU will (1) initiate further steps to amend any summary memoranda to accurately reflect the results of the background investigation and make it suitable for dissemination, if necessary, and (2) will make other appropriate corrections/notations in captioned case file to avoid any dissemination of incorrect information.

(B) If in the future, the FBI is requested by an outside entity to conduct another background investigation on captioned subject, SIGBIU will take appropriate steps to determine if Harlow falsified any part of his investigation in the prior FBI background investigation, and, if so, redo that part and report the results in the current background investigation.

WMFO IS REQUESTED TO MAINTAIN THIS ROUTING SLIP AND THE ENCLOSURE THERETO AS THE TOP SERIAL(S) IN ITS 161 CASE FILE

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** File Classification "197"  
**Date:** March 31, 1998

**File Classification "197"**  
**Civil Suits and Administrative Claims**

Prior to a decision to disclose information from any 197 classification file (or equivalent file reporting civil actions or claims against the Government or individual employee such as 62 or 63 classifications), the PLS should identify through the Automated Case Support system the status of the litigation and to whom the case is assigned within the Office of General Counsel (OGC). Upon obtaining this information, the PLS should consult with the attorney to determine the following: 1) whether there is any privileged material in the file, and; 2) whether affidavits and other similar records were actually filed with the court, thus making them public source material.

Records prepared for litigation involving DOJ/FBI matters may generally be protected from disclosure by Exemption (d)(5) of the Privacy Act and/or FOIA exemption (b)(5), in addition to, any other applicable FOIA exemptions. The basis for claiming (d)(5) of the Privacy Act is that "nothing in this [Privacy Act] shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding." The basis for claiming Exemption (b)(5) is either: (1) the deliberative process privilege, which is to protect decision making processes of government agencies; (2) the attorney work-product privilege, which protects documents prepared by an attorney in contemplation of litigation; or (3) the attorney-client privilege, which protects confidential communications between an attorney and his client regarding a legal matter for which the client has sought professional advice.

In applying these exemptions to 197 files, the PLS must determine what type of request is being made (i.e., first vs. third party) and if the requester is a party to the lawsuit or administrative claim. Records requested by third parties (those individuals which are not a party to the lawsuit) are processed strictly under FOIA. The applicability of Exemption (b)(5) may be considered, however, the PLS must be mindful of Attorney General Janet Reno's "foreseeable harm" standard to establish if the disclosure of the information would harm the basic institutional interests. The information should be disclosed unless the PLS is able to articulate a specific harm after his or her discussion with the OGC attorney.

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**Classification "197"**

Records processed for first party requesters who are a party to the civil suit or claim (i.e., a plaintiff) must be reviewed pursuant to Exemption (d)(5) of the Privacy Act. It should be noted, however that this provision in certain respects is not as broad as Exemption (b)(5) and does not incorporate certain (b)(5) privileges. It should be kept in mind the application of other PA and FOIA exemptions may be contained within the documents maintained in these files and that information should be processed accordingly.

First party requests for 197 files wherein the requester was represented by a DOJ attorney (i.e., a DOJ attorney represents an Agent who is being sued), are also processed using the (d)(5) exemption, and generally, he or she should have access to the entire file.

It is recommended the PLS refer to the DOJ/OIP FOIA Guide and Privacy Act Overview publication for a detailed and in-depth discussion concerning the application of Exemptions (b)(5)/(d)(5) and the "foreseeable harm" standard.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Filing of FOIPA Material  
**Date:** March 31, 1998

### Preparing Mail for File

Once the LT/PLS has closed a case, wait approximately 60 days prior to preparing or sending the mail to file. This will avoid unnecessary delays in handling appeals or responding to the requester should he/she correspond after the final disclosure letter or the last action taken by the FBI.

The following steps will assist the LT/PLS in preparing and sending the mail to file:

(1) **Date Order**: Mail should be placed in date order before sending it to file. Do not staple communications together. Intra-Bureau forms such as the OPCA-18 form (referral to DCU) should also be treated as separate pieces of correspondence and not stapled to any outgoing or incoming mail. All enclosures indicated on the correspondence should be placed directly behind the piece of mail. Every enclosure should be accounted for and any missing enclosure should be identified and a notation made as to the disposition. Once the separate pieces of correspondence have been arranged in date order, the package should be secured by heavy rubber bands or straps to ensure that it will not detach in the mail during transmittal. **Do not staple the package together or place the entire package on a file back.**

(2) **Enclosure Count**: The number of enclosures designated on the yellow should correspond with the number of enclosures being sent to file with the exception of routine enclosures such as the "Explanation of Exemptions" sheet, a copy of the requester's letter, "Fee Waiver Regulations", "Attorney General Order 556-73" (instructions for requesting arrest records), etc. It might be helpful to note on the yellow the identity of each enclosure if there is any doubt as to the number of enclosures being transmitted. Place a file cover sheet on top of each enclosure in the processed package (**See Attachment for an example**). When an enclosure has been detached, (such as a field office file from an EC) the LT/PLS should make a notation on the EC that "files detached in Room \_\_\_\_" and initial the notation. A blank sheet of paper should be placed on the bottom of all the enclosures so that during routine handling and filing of the mail if the bottom page becomes torn it will be the blank sheet of paper torn and not the last page of your processing package or an original communication.

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### Filing of FOIPA Material

(3) **Search Slips**: The search slip(s) should be attached to one of the following: a) the yellow no record letter, b) the processed package (place between the file cover sheet and the inventory sheet of the top enclosure in the processed package), or c) stapled to the front of the initial FOIPA request.

(4) **Duplicate Copies**: Do not send the following documents to file: tickler copies, extra copies, or duplicate copies which have been made of any correspondence. Carbon copies of original correspondence directed to the FBI may be detached and destroyed, however, a notation should be made on the copy count that the additional copies have been detached. Since each piece of mail is being recorded/serialized, this will ensure that only one piece of correspondence is placed on record.

(5) **Mail not Addressed to the FBI**: Place the notation "FBI" on the lower left-hand corner of correspondence not addressed to the FBI (e.g., copies of letters sent by DOJ to the requester acknowledging receipt of an administrative appeal or advising of the final determination of the appeal). This designates it as an official FBI copy.

(6) **Receipts**: Copies of receipts which FOIPA employees sign acknowledging receipt of mail from a requester, DOJ, or another Government agency should not be sent to file. The fact that the mail is in file is sufficient acknowledgment of our possession. The only receipts that are necessary to file are those which we might ask a requester to sign acknowledging his/her receipt of certain material. Therefore, all other receipts will be kept in IPU/RTSS.

(7) **Abandoned Cases**: Form OPCA-25 should be used to transmit documents to file in cases where the material has been processed but is not sent to the requester (i.e., the material was processed and the money letter sent to the requester, but no reply was received, or the material was processed and not sent because the request was withdrawn).

(8) **Mail Returned by the Postal Service**: When material is sent to the requester and then returned by the Postal Service for insufficient address, addressee unknown, etc., the LT/PLS will write the complete file number and, if known, the serial number of the outgoing yellow at the bottom of the original letter and send the letter **with the envelope on top** to the 190 Processing Subunit to be filed behind the original yellow. There is no need to send the enclosure (the black-out copy of the release material) to the 190-file, therefore, the LT/PLS should indicate on the original letter that the enclosure has been detached and destroyed.

(9) **Copies of Original Mail**: If the original piece of mail is not available (misplaced or inadvertently destroyed) and the LT/PLS maintained a copy of the original, then the copy of this mail may be sent to file with the notation "Treat as Original" in red pencil on the bottom left side of the copy. If the original mail is located, it will be inserted in file in place of the copy.

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### Filing of FOIPA Material

(10) **Placing the 190 number on the documents:** The LT/PLS should write the 190 file number in red on the lower right corner of every document. In all instances, when sending the mail to be placed on record and filed by the 190 Processing Subunit, the salmon tag (O-100c) should be completed and attached to the upper right-hand corner of the most current piece of mail. If a Universal Case File Number for the 190-file (the case number consists of seven or more digits) has been assigned to the FOIPA case, the 190 number should be documented and placed on the O-100c by checking the block adjacent to "Place in Existing \_\_\_\_\_". If a pre-UCFN 190-file (six digits or less) is still being used, a new UCFN 190-file number will be assigned to the case when it is sent to the 190 Processing Subunit for placing the mail on record. In this situation, the O-100c should be completed by checking the blocks adjacent to "New 190" and "Place in Existing \_\_\_\_\_", entering the pre-UCFN on this line. At the time the 190 Processing Subunit places the mail on record, a new UCFN 190 number will be assigned to the case. Keep in mind that these FOIPA requesters will now have both a pre-UCFN and a regular UCFN 190 file.

(11) **Indexing:** Underline the subject in green pencil on the most recent piece of mail when the package has been assembled. If the most recent piece of correspondence is something other than the disclosure letter, such as a DOJ/OIP letter affirming an appeal or an electronic communication returning field office files, the PLS should underline the subject of the request in green pencil on the disclosure letter. This allows IPU to easily determine the subject of the request for indexing purposes.

(12) **Enclosure Behind File (EBF)/ Bulky:** When an enclosure contains 50 pages or less, the material will be placed in the main 190 file behind the original mail. If the enclosure is approximately 51 to 99 pages, the material will be placed on record as an EBF, or when over 100 pages, it will be prepared as a Bulky. This step of preparing an EBF and Bulky will be done by the 190 Processing Subunit.

### **Sending Processed Personnel Material to File**

When preparing processed personnel material for file, the above procedures should be followed except the 62 {Administrative Inquiry (AI)}, 67, 263, or 280 file number should be documented on the bottom of each document instead of a 190 file number. Each piece of mail (all incoming, outgoing and inter/intra office communications) should also have "FOIPA" or "OPCA" written or stamped on the bottom right corner and the PLS should initial through the FOIPA or OPCA.

When a Privacy Act request involves processing of material from a 62 (AI), 67, 263 or 280 file classification, **only** those pages containing deletions should be forwarded to the Personnel Records Section, Room 11741, for filing into the respective 62 (AI), 67, 263 or 280 file along with the original FD-488 and/or OPCA-16 form (Disclosure letter). Please note those

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### **Filing of FOIPA Material**

documents from the 67 Sub M and/or the Sub S which contain redactions are to be filed in the 67 Sub M and/or Sub S, along with a copy of the FD-488 or the OPCA-16 form, and not in the main 67 file.

If processing **also** involves additional file classifications other than personnel type records, a 190 file **should be opened** and the processed documents from the other file classification(s) should be filed in the 190 file along with a copy of the FD-488 and/or OPCA-16 form. The 190 file number should be recorded in the "Miscellaneous" block on the computer sheet.

**Note:** All personnel type records must be placed in and transmitted by a messenger envelope.

### **Filing of Previously Released FOIPA Material**

When a request is made for the same information which has been previously released, it will not be necessary to have the released documents filed again. Instead, place the notation "previously processed material" in the lower left margin next to the referral blocks on the disclosure letter. A notation of the prior release should be noted on the yellow outgoing communication (disclosure letter) by indicating the 190-file number where the preprocessed material is located and the serial number (Bulky and/or EBF). The note should also include a list of the preprocessed file numbers and/or documents as well as the number of pages being released to the subsequent FOIPA requester. Further, the PLS should forward a copy of the current FOIPA release letter to the preprocessed 190-file (where the documents were originally released) in order to keep the original 190-file from being destroyed.

### **190 Classification Control Files**

Below is a list of FOIPA control files:

190	Main File for each requester
190-0	General Type Mail, Administrative Closings
190-00	FOIPA Policy and Federal Legislation
190-1	FOIPA Regional Field Division Conferences
*190-2	FOIPA No Record Responses
190-3	FOIA Impact on Law Enforcement Activities



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**Filing of FOIPA Material**

190-4	FOIPA Reading Room Requests and Releases
190-6	FOIA Annual Report to Congress
190-710	FOIPA - Instruction to Field Offices
190-711	State Privacy Legislation
190-56511	FOIPA Training FBIHQ
190-HQ-1046286	FOIPA Third Party Denials
190-HQ-1056344	FOIPA Referral Policy Matters
197-122	FOIPA Litigation Cases
242-42	FOIPA Automation

\*190-2 has been changed to 190-HQ-1189353

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Foreign Intelligence Surveillance Court (FISC)  
**Date:** March 31, 1998

### Foreign Intelligence Surveillance Court (FISC)

The FISC was established pursuant to the Foreign Intelligence Surveillance Act (FISA) of 1978 and has sole responsibility for approving requests for electronic surveillance coverage in FCI and international terrorist cases. Unlike other federal courts, the records of the FISC are not public in nature and must be maintained under secure conditions. Care must be exercised in order to avoid releasing under the FOIA any FISC material where disclosure would violate the FISA.

The investigative file of an individual, group, entity, or organization which was the target of an FISC approved electronic surveillance will normally contain the following documents:

- (1) Application to the FISC for an order approving the electronic surveillance.
- (2) Minimization procedures adopted by the Attorney General which govern the FBI's acquisition, retention, and dissemination of information obtained through the electronic surveillance ordered by the court.
- (3) Certification attesting to certain facts concerning the electronic surveillance (i.e., purpose of the surveillance, type of foreign intelligence information sought, etc.). It can only be signed by the Director of the FBI or certain other high-level government officials designated by the President.
- (4) Primary order authorizing the FBI to conduct electronic surveillance. This order also makes reference to the minimization procedures by directing that they be followed.
- (5) Secondary order directing a communications carrier to render operational assistance to the FBI in connection with the electronic surveillance.

The application and minimization procedures are classified by the Deputy Counsel for Intelligence Operations, Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ). The certification is classified by the FBI Director or other certifying official and both the primary and secondary orders receive derivative classification by the FISC clerk of court based on the application.

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**Foreign Intelligence Surveillance Court (FISC)**

Since the minimization procedures originate from DOJ and are classified by OIPR, that portion must be referred to OIPR for a decision regarding access under the FOIA. [REDACTED]

[REDACTED]

b2

[REDACTED] Established procedures should then be followed as outlined in the memorandum pertaining to Exclusions.

b2

Prior to processing FISC records or notifying the requester that FISC records were referred to DOJ for review, the PLS is to consult with the National Security Division (Room [REDACTED], Ext. [REDACTED]) as well as DOJ, OIPR.





**U.S. Department of Justice**  
**Federal Bureau of Investigation**

Washington, D.C. 20535

Director  
 United States Secret Service  
 Department of the Treasury  
 Washington, D. C. 20223

RE:

The information furnished herewith concerns an individual or organization believed to be covered by the agreement between the FBI and Secret Service concerning protective responsibilities, and to fall within the category or categories checked.

1.  Threats or actions against persons protected by Secret Service.
2.  Attempts or threats to redress grievances.
3.  Threatening or abusive statement about U.S. or foreign official.
4.  Participation in civil disturbances, anti-U.S. demonstrations or hostile incidents against foreign diplomatic establishments.
5.  Illegal bombing, bomb-making or other terrorist activity.
6.  Defector from U.S. or indicates desire to defect.
7.  Potentially dangerous because of background, emotional instability or activity in groups engaged in activities inimical to U.S.

Photograph  has been furnished  enclosed  is not available.

Director  
 Federal Bureau of Investigation

1 - Special Agent in Charge (Enclosure(s))  
 U.S. Secret Service

Enclosure(s)

MEMO 42 - ATTACHMENT 1

**F O I P A**

# MEMO 43

**M A N U A L**

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** FD-430 Bank Robbery Summary Report  
**Date:** March 31, 1998

When processing the FD-430, copies attached, the following procedures should be utilized:

All of the boxes for the answers in the "Security Devices" portion of the FD-430 should be redacted when any of the boxes are checked pursuant to Exemption (b)(7)(E). (The response boxes cannot be selectively withheld since that would reveal which devices were in use at the time of the crime, thus rendering the bank vulnerable to future robbery attempts.) The names of the devices should not be redacted. If none of the boxes are checked, this portion of the form may be released entirely.

In the "Modus Operandi" portion of the form, all of the information should be redacted with the exception of the checked boxes with their corresponding techniques in first party requests pursuant to Exemption (b)(7)(E). (Since the requester is the perpetrator of the crime, he already knows the modus operandi which was utilized.) In third party requests, this entire portion of the form should be redacted. The concern in both cases is that a list of robbery techniques may suggest to the requester a technique to be used in a future robbery.

The older FD-430 forms include a statement in the "Solution" portion of the form indicating whether informant information contributed to the solution of the crime. This statement has been challenged under the Landano decision, and the statement itself can be released, however the boxes should be redacted in all cases under (b)(7)(D).

At times there may be a letterhead memorandum (LHM) attached as an enclosure to the FD-430 or other documents within the file which may indicate the denomination and serial numbers of the bait money taken during the robbery. If the PLS is able to determine from a review of the file that all of the bait money was recovered, there is no harm in the release of the denomination and the serial numbers. If only partially recovered, not recovered, or if the PLS is unable to determine this information from the file, excise only the denomination and serial numbers of the bait money pursuant to Exemption (b)(7)(E). Exemption (b)(7)(E) may also be applied to the specific location of the bait money in the teller's drawer. **Do not withhold the fact that bait money was taken.**

**FOIPA Numbered Memo 43**

Page 2

**FD-340 Summary Bank Robbery Reports**

Many banks utilize what is known as "dye packs." This exploding device, when detonated, releases a red dye on its surroundings. The denomination and serial numbers of the money in the dye pack are recorded by the bank in the same manner as bait money. The denomination and serial numbers should be redacted using the same criteria applied to the bait money mentioned above.

Exemption (b)(7)(E) should be cited for any mention or details of the construction of the dye pack and Exemption (b)(4) for the specific chemical makeup of the dye.

MEMO 43 - ATTACHMENT 1 (FRONT)

Date:

Field Office Case:

Subject:

TYPE:

- Robbery
- Burglary
- Larceny
- Extortion
- Hobbs Act - Armored Carrier

ENTRY (check one):

- New Case
- Change or addition - complete applicable categories only
- Deletion - remove entry, no violation

Time of offense \_\_\_\_\_  am  pm  
 Demand Note Available  Yes  No  
 Surveillance Photos Available  Yes  No  
 Quality of Photos  (P) Poor  (F) Fair  (G) Good  
 Is there any Noteworthy Text for this case  Yes  No  
 County \_\_\_\_\_

Initial submission must be uploaded within 10 calendar days of the offense.

INSTITUTION TYPE:

- (A) Armored Carrier
- (B) Commercial Bank
- (C) Credit Union
- (M) Mutual Savings Bank
- (S) Savings and Loan

INSTITUTION/COMMUNITY CHARACTERISTICS: (Check one of each group)

- |  |  |   |
|--|--|---|
| Facility Type:                               | Facility Location:                               | Community Type:                                 |
| <input type="checkbox"/> (B) Branch Office   | <input type="checkbox"/> (C) Commercial District | <input type="checkbox"/> (C) Small City or Town |
| <input type="checkbox"/> (M) Main Office     | <input type="checkbox"/> (L) Rural               | <input type="checkbox"/> (M) Metropolitan       |
| <input type="checkbox"/> (O) Other           | <input type="checkbox"/> (R) Residential         | <input type="checkbox"/> (R) Rural              |
| <input type="checkbox"/> (R) Remote Facility | <input type="checkbox"/> (S) Shopping Center     | <input type="checkbox"/> (S) Suburban           |

INSTITUTION AREA INVOLVED:

- |  |   |                                      |
|--|---|--------------------------------------|
| <input type="checkbox"/> (A) Teller Counter    | <input type="checkbox"/> (E) Drive-in/Walk-up         | <input type="checkbox"/> (I) Courier |
| <input type="checkbox"/> (B) Vault/Safe        | <input type="checkbox"/> (F) Night Depository         | <input type="checkbox"/> (O) Other   |
| <input type="checkbox"/> (C) Safe Deposit Area | <input type="checkbox"/> (G) Armored Vehicle          |                                      |
| <input type="checkbox"/> (D) Office Area       | <input type="checkbox"/> (H) Automatic Teller Machine |                                      |

SECURITY DEVICES:

- |                             |  |           |  |                   |  |
|-----------------------------|--|-----------|--|-------------------|--|
| Alarm System                | <input type="checkbox"/> Yes <input type="checkbox"/> No | Activated | <input type="checkbox"/> Yes <input type="checkbox"/> No | Functioned        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Surveillance Camera         | <input type="checkbox"/> Yes <input type="checkbox"/> No | Activated | <input type="checkbox"/> Yes <input type="checkbox"/> No | Functioned        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Bait money maintained       | <input type="checkbox"/> Yes <input type="checkbox"/> No | Taken     | <input type="checkbox"/> Yes <input type="checkbox"/> No | Bait Criteria met | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Guards(s)                   | <input type="checkbox"/> Yes <input type="checkbox"/> No | On Duty   | <input type="checkbox"/> Yes <input type="checkbox"/> No | Armed             | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Currency dye/gas pack       | <input type="checkbox"/> Yes <input type="checkbox"/> No | Taken     | <input type="checkbox"/> Yes <input type="checkbox"/> No | Functioned        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Electronic Tracking Devices | <input type="checkbox"/> Yes <input type="checkbox"/> No | Activated | <input type="checkbox"/> Yes <input type="checkbox"/> No | Functioned        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Bullet resistant enclosure  | <input type="checkbox"/> Yes <input type="checkbox"/> No |           |  |                   | <input type="checkbox"/> (U) Unknown                     |

SUBJECTS: Number known involved \_\_\_\_\_ or  (U) Unknown

Race/sex-specify number each:

White Male _____	White Female _____
Black Male _____	Black Female _____
Hispanic Male _____	Hispanic Female _____
Other Male _____	Other Female _____
Unknown Male _____	Unknown Female _____
Unknown Race/Sex _____	

VIOLENCE:  Yes  No

- Shooting
- Physical Assault
- Explosion
- Hostage Taken

Injury  Yes  No    Death  Yes  No    Hostage  Yes  No

Specific number of each:

LOOT TAKEN:  Yes  No

- |  |          |                                      |
|--|----------|--------------------------------------|
| <input type="checkbox"/> Cash                  | \$ _____ | <input type="checkbox"/> (U) Unknown |
| <input type="checkbox"/> Security - Face Value | \$ _____ | <input type="checkbox"/> (U) Unknown |
| <input type="checkbox"/> Checks                | \$ _____ | <input type="checkbox"/> (U) Unknown |
| <input type="checkbox"/> Traveler's Checks     | \$ _____ | <input type="checkbox"/> (U) Unknown |
| <input type="checkbox"/> Food Stamps           | \$ _____ | <input type="checkbox"/> (U) Unknown |
| <input type="checkbox"/> Other Property        | \$ _____ | <input type="checkbox"/> (U) Unknown |

LOOT RECOVERED:  Yes  No

- |  |          |
|--|----------|
| <input type="checkbox"/> Cash                  | \$ _____ |
| <input type="checkbox"/> Security - Face Value | \$ _____ |
| <input type="checkbox"/> Checks                | \$ _____ |
| <input type="checkbox"/> Traveler's Checks     | \$ _____ |
| <input type="checkbox"/> Food Stamps           | \$ _____ |
| <input type="checkbox"/> Other Property        | \$ _____ |

	Injury	Death	Hostage
Customer			
Employee			
Employee Family			
Subject			
Law Officer			
Guard			
Other			



ODUS OPERANDI:

- Oral demand
- Demand Note
- No weapon threatened
- Weapon threatened
  - Orally
  - Written
  - Gestured
- Firearm used
  - Hand gun
  - Shoulder weapon
  - Sawed-off shotgun
- Explosive device or hoax bomb
- Knife Used/Threatened
- Hypodermic Needle Used/Threatened
- Other weapon used
- Counter vaulted
- Occupants ordered to floor
- Bank business pretense
- Facial disguise  
(wig, mustache, beard, etc.)
- Ski masks/theatrical masks
- Head Covering/Helmet Used
- Gloves/hand covering worn
- Law enforcement impersonation
- Walkie-talkies used
- Handcuffs/other restraints used
- Employees confronted before work
- Employee(s)/victim(s) put in vault/back room
- Subject(s) took employee's vehicle
- Till theft/grab and run
- Foot getaway
- Vehicle getaway
  - Auto  Truck  Other
  - Motorcycle  Aircraft  Bicycle
- Switch vehicle(s) used
- Police diversion
- Alarm compromised
- Vault/Safe Burglary/Larceny
  - Rip/peel
  - Punch
  - Torch/thermal bar
  - Explosive
  - Drill
  - Hydraulic equipment/tools
- Night Depository Burglary/Larceny
  - Forcible entry
  - Depository trap/basket
  - Drill
  - Explosives
  - Glue/Adhesive
- Automatic Teller Machine Attack
- Extortionate Demand
  - Phone call
  - Written
    - Mailed to victim
    - Left in Night Depository
    - Other delivery
  - Bomb threat
  - Hostage claimed
    - Real
    - Hoax
- Residence invasion
  - Forcible
  - Pretense
- Other M.O  
(Describe in narrative)

Demand Note Text (Is Demand Note Text Exact or Paraphrased:  Exact  Paraphrased)

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Significant Information

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SOLUTION: Complete only upon identification of all subjects. Complete justification for solution credit must be set forth in accompanying narrative pages.

Solution communication date: \_\_\_\_\_ (mm/dd/yyyy)

Solution by:  (F) FBI  (J) Joint Police/FBI  (P) Police

Predominate solution factor:  (D) Defensive action by employee, guard, etc.  (E) Extended investigation  (L) Law enforcement response

Elapsed time-violation to solution:  (A) Response  (B) Same Day  (C) 1-5 Days  (D) 6-30 days  (E) 1-3 months  (F) 3-6 months  
(G)  6-12 months  (H) 1 year or longer

Total number of subjects: \_\_\_\_\_

Interstate aspect:  Yes  No  (U) Unknown Multiple BR, BB, BL or BE activity  Yes  No

Subject(s) previously convicted (Federal or State) for BR, BB, BL, or BE:  Yes  No Number \_\_\_\_\_

Subject(s) on parole/probation (Federal or State) at the time of offense:  Yes  No Number \_\_\_\_\_

Subject(s) in escape status:  Yes  No Number \_\_\_\_\_

Drug user(s) involved:  Yes  No  (U) Unknown Number \_\_\_\_\_

NABRA cancellation:  Yes  No (Attach administrative comments)

Federal Bureau of Investigation

AIRTEL

Date: 5/18/88

Director, FBI

Attention: CRIMINAL INVESTIGATIVE DIVISION

From: SAC, CHICAGO

(P)

Subject: See attached for Title.

TYPE:

- Robbery, Burglary, Larceny, Extortion, Hobbs Act - Armored Carrier, Subclass: 91A, 91B, 91C, 91F, 182C

ENTRY (check one):

- New case, Change or addition - complete applicable categories only, Deletion - remove entry, no violation

Offense location: HQ/RA code: 3150 (see codes listed on back)

Initial submission must be made within 14 calendar days of the offense.

INSTITUTION TYPE:

- Commercial Bank, Mutual Savings Bank, Savings and Loan, Credit Union, Armored Carrier Co.

INSTITUTION/COMMUNITY CHARACTERISTICS: Check one of each group

- Facility Type: Main Office, Branch Office, Remote Facility, Other; Facility Location: Commercial District, Shopping Center, Residential, Rural; Community Type: Metropolitan, Suburban, Small City or Town, Rural

INSTITUTION AREA INVOLVED:

- Teller Counter, Vault/Safe, Safe Deposit Area, Office Area, Drive-in/Walk-up, Night Depository, Armored Vehicle, Automatic Teller Machine, Courier, Other

OCCURRENCE - Indicate both Day and Time:

- Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday, Unknown, 6-9am, 9-11am, 11am-1pm, 6pm-6am, 1-3pm, 3-6pm

SECURITY DEVICES:

- Alarm System, Surveillance camera, Bait money maintained, Guard(s), Currency dye/gas pack, Fire-resistant enclosure, Activated, Taken, On duty, Functioned, Bait criteria met, Armed, Functioned

PERPETRATORS: Number known involved 4 or Unknown

Age/sex - specify number each:

- White Male 4, Black Male, Hispanic Male, Other Male, Unknown Male, White Female, Black Female, Hispanic Female, Other Female, Unknown Female

LOOT TAKEN: Yes No

- Cash \$41,456.00, Securities - Face value, Other property

LOOT RECOVERED:

- Cash \$1,635.00, Securities - Face value, Other property

VIOLENCE: Yes No

- Shooting, Physical Assault, Explosion, Hostage Taken

Specify number each:

- Injury, Death, Hostage, Customer, Employee, Employee family, Subject, Law Officer, Guard, Other

MODUS OPERANDI:

- Oral demand/no weapon threatened, Weapon threatened, Written, Gestured, Robbery note, Firearm used, Hand gun, Shoulder weapon, Sawed-off shotgun, Explosive device or hoax bomb, Other weapon used, Counter vaulted, Occupants ordered to floor, Bank business pretense, Facial disguise, Ski masks/theatrical masks, Gloves/hand covering worn, Law enforcement impersonation, Walkie-talkie, Handcuffs/unlike restraints used, Employees confronted before work, Employee(s)/victim(s) in vault/back room, Subject(s) took employee's vehicle, Till theft/grab and run, Foot getaway, Vehicle getaway, Auto, Truck, Other, Motorcycle, Aircraft, Bicycle, Switch vehicle(s) used, Police diversion, Alarm compromised, Vault/Safe Burglary/Larceny, Rip/peel, Punch, Torch/thermal bar, Explosive, Drill, Hydraulic equipment/tools, Night Depository Burglary/Larceny, Forcible entry, Depository trap/basket, Drill, Explosives, Automatic Teller Machine Attack, Extortionate Demand, Phone call, Written, Mailed to victim, Left in Night Depository, Other delivery, Bored threat, Hostage claimed, Real, Hoax, Residence invasion, Forcible, Pretense, Other M.O. (Describe in narrative)

SOLUTION: Complete only upon identification of all subjects. Complete justification for solution credit must be set forth in accompanying narrative pages.

- Solution by: FBI, Police, Joint FBI/Police, Total number of subjects 4, Predominate solution factor: Law enforcement response, Extended investigation, Defensive action by employee, guard, etc., Elapsed time-violation to solution: Response, Same day, 1-5 days, 6-30 days, 1-3 mos, 3-6 mos, 6-12 mos, over 1 yr, Interstate aspect: Yes, No, Unknown, Multiple BR, BB, BL, or BE activity: Yes, No, Subject(s) previously convicted (Federal or State) for BR, BB, BL, or BE: Yes, No, Number 2, Subject(s) on parole/probation (Federal or State) at the time of offense: Yes, No, Number, Subject(s) in escape status: Yes, No, Number, Subjects user(s) involved: Yes, No, Unknown, Number

ABRA cancellation: Yes, No (attach administrative comments)

- Bureau, Copy of demand note enclosed, Surveillance/arrest photos enclosed, 1 - Cincinnati, 1 - Cleveland, 1 - Detroit, 1 - Indianapolis, 1 - Milwaukee, 1 - Minneapolis, 1 - Omaha, 1 - Louisville, 1 - Springfield, 1 - St. Louis, 7 - Chicago LJJ:mam (19)



MEMO 43 - ATTACHMENT 2b  
(THIRD PARTY REQUEST)  
Federal Bureau of Investigation

AIRTE

Date: 5/18/88

Director, FBI

Attention: CRIMINAL INVESTIGATIVE DIVISION

From: SAC, CHICAGO (P)

Subject: See attached for Title.

TYPE:  
 Robbery  
 Burglary  
 Larceny  
 Extortion  
 Hobbs Act - Armored Carrier  
Subclass:  01A  01B  01C  01F  102C

ENTRY (check one):  
 New case  
 Change or addition - complete applicable categories only  
 Deletion - remove entry, no violation

Offense location: HQ/RA code: 3150 (see codes listed on back)

Initial submission must be made within 14 calendar days of the offense.

INSTITUTION TYPE:  
 Commercial Bank  
 Mutual Savings Bank  
 Savings and Loan  
 Credit Union  
 Armored Carrier Co.

INSTITUTION/COMMUNITY CHARACTERISTICS: Check one of each group  
Facility Type:  Main Office  Branch Office  Remote Facility  Other  
Facility Location:  Commercial District  Shopping Center  Residential  Rural  
Community Type:  Metropolitan  Suburban  Small City or Town  Rural

INSTITUTION AREA INVOLVED:  
 Teller Counter  Drive-in/Walk-up  Courier  
 Vault/Safe  Night Depository  Other  
 Safe Deposit Area  Armored Vehicle  
 Office Area  Automatic Teller Machine

OCCURRENCE - Indicate both Day and Time:  
Date:  Monday  Tuesday  Wednesday  Thursday  
 Friday  Saturday  Sunday  Unknown  
Time:  6-9am  9-11am  11am-1pm  Unknown  
 1-3pm  3-6pm  6pm-6am

SECURITY DEVICES:  
Alarm System Yes No Activated Yes No  
Surveillance camera Yes No Activated Yes No  
Bait money maintained Yes No Taken Yes No  
Guard(s) Yes No On duty Yes No  
Currency dye/gas pack Yes No Taken Yes No  
Bullet resistant enclosure Yes No

Functioned Yes No } b7E  
Functioned Yes No  
Bait criteria met Yes No  
Armed Yes No  
Functioned Yes No  Unknown

SUSPECTS: Number known involved 4 or  Unknown  
e/sex - specify number each:  
White Male 4 White Female \_\_\_\_\_  
Black Male \_\_\_\_\_ Black Female \_\_\_\_\_  
Hispanic Male \_\_\_\_\_ Hispanic Female \_\_\_\_\_  
Other Male \_\_\_\_\_ Other Female \_\_\_\_\_  
Unknown Male \_\_\_\_\_ Unknown Female \_\_\_\_\_

MODUS OPERANDI:  
[REDACTED]

LOOT TAKEN:  Yes  No  
 Cash \$ 41,456.00  Unknown  
 Securities - Face value \$ \_\_\_\_\_  Unknown  
 Other property \$ \_\_\_\_\_  Unknown

LOOT RECOVERED:  
 Cash \$ 1,635.00  
 Securities - Face value \$ \_\_\_\_\_  
 Other property \$ \_\_\_\_\_

VIOLENCE:  Yes  No  
 Shooting  Physical Assault  
 Explosion  Hostage Taken  
Specify number each:  
 Injury  Death  Hostage  
Customer \_\_\_\_\_  
Employee \_\_\_\_\_  
Employee family \_\_\_\_\_  
Subject \_\_\_\_\_  
Law Officer \_\_\_\_\_  
Guard \_\_\_\_\_  
Other \_\_\_\_\_

SOLUTION: Complete only upon identification of all subjects. Complete justification for solution credit must be set forth in accompanying narrative pages.

Solution by:  FBI  Police  Joint FBI/Police Total number of subjects 4  
Predominate solution factor:  Law enforcement response  Extended investigation  Defensive action by employee, guard, etc.  
Elapsed time-violation to solution:  Response  Same day  1-5 days  6-30 days  1-3 mos  3-6 mos  6-12 mos  over 1 yr  
Interstate aspect:  Yes  No  Unknown Multiple BR, BB, BL, or BE activity:  Yes  No  
Subject(s) previously convicted (Federal or State) for BR, BB, BL, or BE:  Yes  No Number 2  
Subject(s) on parole/probation (Federal or State) at the time of offense:  Yes  No Number \_\_\_\_\_  
Subject(s) in escape status:  Yes  No Number \_\_\_\_\_  
Police user(s) involved:  Yes  No  Unknown Number \_\_\_\_\_  
ABRA cancellation:  Yes  No (attach administrative comments)

2) Bureau 1 - Cincinnati 1 - Milwaukee 1 - Springfield  
 Copy of demand note enclosed. 1 - Cleveland 1 - Minneapolis 1 - St. Louis  
 Surveillance/arrest photos enclosed. 1 - Detroit 1 - Omaha 7 - Chicago LJF:mam  
1 - Indianapolis 1 - Louisville (19)

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** FD-515 Accomplishment Report  
**Date:** March 31, 1998

Attached is a copy of Bureau form FD-515 (**Attachment 1-two samples**) and FD-515a (**Attachment 2**). The FD-515 is used to record convictions, recoveries, and other FBI field office accomplishments credited to a particular investigation. The FD-515a, a supplemental page to the Accomplishment Report, is prepared when reporting an indictment and/or conviction of a subject of an Organized Crime Program case. At times, several FD-515a reports may be attached to the FD-515 since a supplemental page is required for each subject indicted and/or convicted.

When processing the FD-515, particular attention should be given to the "Investigative Assistance or Techniques (IA/T) Used" block located in the upper right corner of the form. The "IA/T" block lists various items of IA/T which are publicly known; however, opposite each item is a space for a numerical rating of each IA/T (from one to four) to record its assistance in the captioned investigation. **If any IA/T block has a numerical rating assigned to it, all spaces adjacent to each activity under the word "rating" in all four columns should be redacted pursuant to Exemption (b)(7)(E).** This will preclude disclosure of which activities were used and what ratings were awarded, while the list of activities remain visible.

In addition, the agent's social security number, located to the left of the "IA/T" block, should be redacted pursuant to Exemption (b)(7)(C).

The FD-515a supplemental page is generally releasable, although privacy issues may be considered if warranted.

FD-515 (Rev. 2-24-86)  
**ACCOMPLISHMENT REPORT**

(Effective 10/1/85)  
 (Submit within 30 days from date of accomplishment)

TO: DIRECTOR, FBI

SAC,

ST:

Bureau File Number
Field Office File Number
Squad or RA Number
Agent's Social Security No.

Date \_\_\_\_\_

Investigative Assistance or Technique Used			
Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? <input type="checkbox"/> No <input type="checkbox"/> Yes - If Yes, rate each used as follows:			
1 = Used, but did not help    3 = Helped, substantially			
2 = Helped, but only minimally    4 = Absolutely essential			
1. Acctg Tech Assistance	Rating	8. Eng. Sect. Tape Exams	Rating
2. Aircraft Assistance	Rating	9. Hypnosis Assistance	Rating
3. Computer Assistance	Rating	10. Ident Div Assistance	Rating
4. Consent Monitoring	Rating	11. Informant Information	Rating
5. ELSUR - PSC	Rating	12. Lab Div Exams	Rating
6. ELSUR - Title II	Rating	13. Lab Div Field Support	Rating
7. Eng. Sect. Field Support	Rating	14. Pen Registers	Rating
15. Photographic Coverage	Rating	16. Polygraph Assistance	Rating
17. Search Warrants Executed	Rating	18. Show Money Usage	Rating
19. Surveill. Sd. (SOG) Asst	Rating	20. SWAT Team Action	Rating
21. Tech. Agt. or Tech Equip	Rating	22. Telephone Toll Recs	Rating
23. UCO Group I	Rating	24. UCO Group II	Rating
25. UC Other	Rating	26. NCAVC/VI-CAP	Rating
27. Visual Invest. Analysis (VIA)	Rating		Rating

- X if a joint operation with:  
 (Identify in other agency)
- X if case involves corruption of a public official (Federal, State or Local).

Preliminary Judicial Process (Number of subjects)	Complaints	Informations	Indictments	D. Recoveries, Restitutions, or Potential Economic Loss Prevented (PELP)	(Explain valuation in remarks)		
					Property Type Code*	Recoveries	Restitutions
a. Arrests, Locates, Summonses or Subpoenas Served (No. of Subj.)					PELP Type Code*	Potential Economic Loss Prevented	
Subject Priority*							
A      B      C							
FBI Arrests -				Subpoenas Served	\$	\$	\$
FBI Locates -				Criminal Summons	\$	\$	\$
Local Arrests -				Local Crim. Summons	\$	\$	\$
FBI Subj. Requested	Armed				\$	\$	\$
Release of Hostages or Children Located: (Number of Hostages or Children Located)					E. Civil Matters		
Hostages Held By Terrorists: _____ All Other Hostage Situations: _____					Government Defendant		
Missing or Kidnaped Children Located: _____					Government Plaintiff		
Amount of Suit					\$	\$	\$
Settlement or Award					\$	\$	\$
Enter AFA Payment Here							

F. Final Judicial Process:	Judicial District	District	State	Conviction or Pretrial Div. Date	Sentence Date	No. of Subjects	Accused	Dismissed
----------------------------	-------------------	----------	-------	----------------------------------	---------------	-----------------	---------	-----------

Subject Description Code* -	Subject 1							Subject 3											
	Conviction			Combined Sentence				Conviction			Combined Sentence								
<input type="checkbox"/> Felony	Title	Section	Counts	In-Jail Yrs	Mos	Suspended Yrs	Mos	Probation Yrs	Mos	<input type="checkbox"/> Felony	Title	Section	Counts	In-Jail Yrs	Mos	Suspended Yrs	Mos	Probation Yrs	Mos
<input type="checkbox"/> Misdemeanor										<input type="checkbox"/> Misdemeanor									
<input type="checkbox"/> Plea				Total Fines \$										Total Fines \$					
<input type="checkbox"/> Trial				Add consecutive sentences together. Enter longest single concurrent sentence. Do not add concurrent sentences together. Sentence 10 yrs.-6 yrs. susp. = 2 yrs. in-Jail.										Add consecutive sentences together. Enter longest single concurrent sentence. Do not add concurrent sentences together. Sentence 10 yrs.-6 yrs. susp. = 2 yrs. in-Jail.					
<input type="checkbox"/> Pretrial Diversion										<input type="checkbox"/> Pretrial Diversion									

Attach additional forms if reporting final judicial process on more than four subjects, and submit a final disposition for (R-64) for each subject.

Remarks: (For every subject reported in Sections A, B or F above, provide name, DOB, race, sex, and POB and SSAN if available.)

MEMO 44 - ATTACHMENT 1 (FRONT)  
 Sample 1

1 - Bureau  
 2 - Field Office  
 \* See codes on reverse side

## Sample 1

Property Type Codes*	
Code No	Description
	Cash (U.S. and foreign currency)
	Stock, Bonds or Negotiable Instruments (checks, travelers checks, money orders, certificates of deposit, etc)
3	General Retail Merchandise (clothing, food, liquor, cigarettes, TVs, etc)
4	Vehicles (autos, trucks, tractors, trailers, campers, motorcycles, etc)
5	Heavy Machinery & Equipment (heavy equipment, computers, etc)
6	Bulk Materials (grain, fuel, raw materials, metals, wire, etc)
7	Jewelry (including unset precious and semiprecious stones)
8	Precious Metals (gold, silver, silverware, platinum, etc)
9	Art, Antiques or Rare Collections
11	Weapons or Explosives
20	All Other Recoveries (not falling in any category above)

Potential Economic Loss Prevented (PELP) Type Codes*	
Code No	Description
22	Counterfeit Stocks, Bonds, Currency or Negotiable Instrument
23	Counterfeit or Pirated Sound Recordings or Motion Pictures
24	Bank Theft Scheme Aborted
25	Ransom, Extortion or Bribe Demand Aborted
26	Theft from, or Fraud Against, Government Scheme Aborted
27	Commercial or Industrial Theft Scheme Aborted
30	All Other Potential Economic Loss Prevented (not falling in any category above)

\*Except for cash, the Remarks section must contain an explanation of the computation of the recovery value or loss prevented. An explanation airtel must accompany this report if the recovery is \$1 million or more, or if the PELP is \$5 million or more.

## Subject Description Codes\*

- Enter Description Code Only When Reporting a Conviction -

## Organized Crime Subjects (Include Family Name Or Group):

- 1A Boss, Underboss or Consigliere
- 1B Capodecina or Soldier
- 1C Possible LCN Member or Associate
- 1D OC Subject Other Than LCN
- 1E Not a Member or Associate of LCN Family or OC Organization

## Union Members:

- 5A International or National Officer
- 5B Local Officer
- 5C Union Employee

## Known Criminals (Other Than OC Members):

- 2A Top Ten or I.O. Fugitive
- 2B Top Thief
- 2C Top Con Man

## Government Officials Or Employees:

Federal	State	Local
6A Presidential Appointee	6J Governor	6R Mayor
6B U.S. Senator	6K Lt. Governor	
6C U.S. Representative	6L Legislator	6S Legislator
6D Judge	6M Judge	6T Judge
6E Prosecutor	6N Prosecutor	6U Prosecutor
6F Law Enforcement Officer	6P Law Enforcement Officer	6V Law Enforcement Officer
6G Fed Empl - GS 13 & above	6Q All Others - State	6W All Others - Local
6H Fed Empl - GS 12 & below		

## Foreign Nationals:

- 3A Legal Alien
- 3B Illegal Alien
- 3C Foreign Official Without Diplomatic Immunity
- D U.N. Employee Without Diplomatic Immunity
- E Foreign Students
- 3F All Others

## Bank Officers or Employees:

- 7A Bank Officer
- 7B Bank Employee

## Terrorists:

- 4A Known Member of a Terrorist Organization
- 4B Possible Terrorist Member or Sympathizer

## All Others:

- 8A All Other Subjects (not fitting above categories)

\*If a subject can be classified in more than one of the categories, select the most appropriate in the circumstance.

## Instructions

## Subject Priorities for FBI Arrest or Locates:

- A - Subject wanted for crimes of violence (i.e. murder, manslaughter, forcible rape, robbery and aggravated assault) or convicted of such crimes in the past five years.
- B - Subjects wanted for crimes involving the loss or destruction of property valued in excess of \$25,000 or convicted of such crimes in the past five years.
- C - All others

## Claiming Non-Federal Arrests, Summonses, Recoveries or Convictions:

It is permissible to claim a local arrest, summons, recovery or conviction if the FBI significantly contributed to the accomplishment. A succinct narrative setting forth the basis for the claim must accompany this report. When claiming a local recovery, enter the word "LOCAL" to the right of the amount. Enter "LF" in the "In-Jail" block for all life sentences and "CP" for capital punishment sentences.

## Reporting Convictions:

Convictions should not be reported until the sentence has been issued. There are two exceptions to this rule. The conviction information can be submitted by itself if:

1. The subject becomes a fugitive after conviction but prior to sentencing.
  2. The subject dies after conviction but prior to sentencing.
- An explanation is required in the Remarks section for either of the above exceptions.

## Rule 20 Situations:

The field office that obtained the process (normally the office of origin) is the office that should claim the conviction, not the office where the subject enters the plea in cases involving Rule 20 of the Federal Rules of Criminal Procedures.

## Investigative Assistance or Techniques (IA/Ts) Used:

- Since more than one IA/T could have contributed to the accomplishment, each IA/T used must be rated.
- The IA/T used must be rated each time an accomplishment is claimed. (For example - if informant information was the basis for a complaint, an arrest, recovery and a conviction and if separate FD-515s are submitted for each of the aforementioned accomplishments, the "Informant Information" block must be entered on each FD-515 even if it was the same information that contributed to all the accomplishments.)

## Codes:

C = Chinese; I = Indian/American; J = Japanese; N = Negro; O = All other; U = Unknown; W = White

Accomplishment Report

(Accomplishment must be reported and loaded into ISRAA within 30 days from date of accomplishment)

Date Prepared \_\_\_\_\_ Date Loaded \_\_\_\_\_ Data Loader's Initials \_\_\_\_\_

Squad supervisor approval (please initial)

- Accomplishment involves: (check all that apply)
Bribe
Investigative
Bankruptcy Fraud
Computer Fraud/Abuse
Corruption of Public Officials
Forfeiture Assets
Sub Invest Asst by FO (s)

File Number

Stat Agent Soc. Sec. No.

Stat Agent Name

RA Squad

Assisting Agents Soc. Sec. No. x

Name:
1.
2.

Investigative Assistance or Technique Used
1-Used, but did not help
2 -Helped, minimally
3 - Helped, substantially
4 - Absolutely essential
For Sub. Invest. Assist. by other FO (s) indicate A,B,C,D for corresponding FO

Asst. FO(s) A, B, C, D

Task Force

Assisting Agencies x
1.
2.

A. Complaint / Information / Indictment
Federal Local International
Complaint Date
Check if Civil Rico Complaint
Information Date
Indictment Date

B. Locate/ Arrest
Federal Local International
Subject Priority: A B C
Locate Date
Arrest Date
Subject Resisted Arrest
Subject Arrested was Armed

C. Summons
Federal Local
Summons Date

H. Conviction
Federal Local International
Conviction Date:
Subject Description Code: ( )
For 6F, G, H--Include Agency Code
Felony Or Misdemeanor
Plea Or Trial
State: Judicial District:

D. Hostage(s) Released Date
Released by: Terrorist Other
Number of Hostages:
Child Located Date

E. Recovery / Restitution / PELP x
Federal Local International
Recovery Date
Code \* Amount
Restitution Date
Court Ordered
Pretrial Diversion
Code \* Amount
PELP Date
Code \* Amount

I. U.S. Code Violations
Required for Sections A, B, F, and H (Federal only)
Table with columns: Title, Section, # of Counts

F. Civil Rico Matters Date
Also Complete Section I
Other Civil Matters Date
Judgment \*
Judicial Outcome x \*
Amount: \$
Suspension: Years Months

G. Administrative Sanctions Date
Subject Description Code \*
Type: Length:
Suspension Permanent
Debarment
Injunction
Years Months

J. Sentence Date:
Sentence type:
Table with columns: In-Jail Years Months, Suspended Years Months, Probation Years Months
Fines: \$

K. Acquittal / Dismissal / Pretrial Diversion
Acquittal Date
Dismissal Date
Pretrial Diversion Date

L. Subject Information (Required for all Sections excluding Section D (Hostages) and E (Recovery/PELP))
Table with columns: Name, Race \*, Sex, Date of Birth, Social Security No. (if available)

For Indictments/Convictions only:
Subject related to an LCN, Asian Organized Crime (AOC), Italian Organized Crime (IOC), Russian/Eastern European, Caribbean, or Nigerian Organized Crime Group Complete FD-515a, Side 1 and Side 2.
Subject related to an OC/Drug Organization, a VCMO Program National Gang Strategy target group, or a VCMO Program National Priority Initiative target group - Complete FD-515a, Side 2.

x Additional information may be added by attaching another form or a plain sheet of paper for additional entries.
See codes on reverse side.

Serial No. of FD-515



PROPERTY CODES

01 Cash  
02 Stocks, Bonds or Negot. Instruments  
03 General Retail Merchandise  
04 Vehicles  
05 Heavy Machinery & Equipment  
06 Aircraft  
07 Jewelry  
08 Vessels  
09 Art, Antiques or Rare Collections  
11 Real Property  
20 All Other

SENTENCE TYPES

CP Capital Punishment  
JS Jail Sentence  
LS Life Sentence  
NS No Sentence (Subject is a Fugitive, Insane, has Died, or is a Corporation)  
PB Probation  
SJ Suspension of Jail Sentence  
YC Youth Correction Act

PELP CODES

22 Counterfeit  
    Stocks/Bonds/Currency/  
    Negotiable Instruments  
23 Counterfeit/Pirated Sound  
    Recordings or Motion Pictures  
24 Bank Theft Scheme Aborted  
25 Ransom, Extortion or Bribe  
    Demand Aborted  
26 Theft From or Fraud Against  
    Government Scheme Aborted  
27 Commercial or Industrial  
    Theft Scheme Aborted  
30 All Other

RACE CODES

A Asian/Pacific Islander  
B Black  
I Indian/American  
U Unknown  
W White  
X Nonindividual

AGENCY CODES

ACIS Army Criminal Investigative Service  
BATF Bureau of Alcohol, Tobacco & Firearms  
BLA Bureau of Indian Affairs  
DCAA Defense Contract Audit Agency  
DCIS Defense Criminal Investigative Service  
DEA Drug Enforcement Administration  
DOC Department of Corrections  
DOI Dept. of Interior  
EPA Environmental Protection Agency  
FAA Federal Aviation Administration  
FDA Food and Drug Administration  
HHS Dept. of Health & Human Services  
HUD Dept. of Housing & Urban Development  
INS Immigration and Naturalization Service  
IRS Internal Revenue Service  
NASA Nat'l Aeronautics & Space Admin  
NBIS Nat'l NARC Border Interdiction  
NCIS Naval Criminal Investigative Service  
RCMP Royal Canadian Mounted Police  
SBA Small Business Administration  
USBP U.S. Border Patrol  
USCG U.S. Coast Guard  
USCS U.S. Customs Service  
USDS U.S. Department of State  
USMS U.S. Marshals Service  
USPS U.S. Postal Service  
USSS U.S. Secret Service  
USTR U.S. Treasury  
LOC Local  
CITY City  
COUN Country  
ST State  
OTHER Other

JUDGMENT CODES

CJ Consent Judgment  
CO Court Ordered Settlement  
DF Default Judgment  
DI Dismissal  
JN Judgment Notwithstanding  
MV Mixed Verdict  
SJ Summary Judgment  
VD Verdict for Defendant  
VP Verdict for Plaintiff

JUDICIAL OUTCOME

AG Agreement  
BR Barred/Removed  
CC Civil Contempt  
DC Disciplinary Charges  
FI Fine  
PI Preliminary Injunction  
PR Temporary Restraining Order  
PS Pre-filing Settlement  
RN Restitution  
SP Suspension  
VR Voluntary Resignation  
OT Other

SUBJECT PRIORITY

A Subject wanted for crimes of violence (i.e., murder, manslaughter, forcible rape) against another individual or convicted of such a crime in the past five years  
B Subject wanted for crimes involving loss or destruction of property valued in excess of \$25,000 or convicted of such a crime in the past five years.  
C All other subjects.

SUBJECT DESCRIPTION CODES

ORGANIZED CRIME SUBJECTS

1F Boss  
1G Underboss  
1H Consigliere  
1J Acting Boss  
1K Capodecina  
1L Soldier

KNOWN CRIMINALS

2A Top Ten or I.O. Fugitive  
2B Top Thief  
2C Top Con Man

FOREIGN NATIONALS

3A Legal Alien  
3B Illegal Alien  
3C Foreign Official W/out  
    Diplomatic Immunity  
3D U.N. Employee W/out  
    Diplomatic Immunity  
3E Foreign Student  
3F All Others

OTHERS

8A All Other Subjects  
8B Company or Corporation

TERRORISTS

4A Known Member of a  
    Terrorist Organization  
4B Possible Terrorist Member  
    or Sympathizer

UNION MEMBERS

5D President  
5E Vice-President  
5F Treasurer  
5G Secretary/Treasurer  
5H Executive Board Member  
5I Business Agent  
5J Representative  
5K Organizer  
5L Business Manager  
5M Financial Secretary  
5N Recording Secretary  
5P Office Manager  
5Q Clerk  
5R Shop Steward  
5S Member  
5T Trustee  
5U Other

GOVERNMENT SUBJECTS

(6F,6G,6H- Include Agency Code)

6A Presidential Appointee  
6B U.S. Senator/Staff  
6C U.S. Representative/Staff  
6D Federal Judge/Magistrate  
6E Federal Prosecutor  
6F Federal Law Enforcement Officer  
6G Federal Employee - GS 13 & Above  
6H Federal Employee - GS 12 & Below  
6J Governor  
6K Lt. Governor  
6L State Legislator  
6M State Judge/Magistrate  
6N State Prosecutor  
6P State Law Enforcement Officer  
6Q State - All Others  
6R Mayor  
6S Local Legislator  
6T Local Judge/Magistrate  
6U Local Prosecutor  
6V Local Law Enforcement Officer  
6W Local - All Others  
6X County Commissioner  
6Y City Councilman

BANK EMPLOYEES

7A Bank Officer  
7B Bank Employee

## Supplemental Page to the Accomplishment Report (FD-515) for Organized Crime Program (OCP) Matters Only

This supplemental page is required with the FD-515 reporting an indictment and/or conviction of a subject of an OCP case. A separate page is required for each subject indicted and/or convicted. The completion of Section A - D is mandatory. The other sections should be completed as applicable.

**A. Name of Subject** \_\_\_\_\_

**B. Field Office** \_\_\_\_\_ **Field Office File No.** \_\_\_\_\_

**C. Criminal Activity** - Indicate the primary criminal activity which resulted in the reported indictment and/or conviction. (Indicate only activity.)

- |   |   |
|---|---|
| <input type="checkbox"/> Labor Racketeering (LRK) (See Section E and G if applicable) | <input type="checkbox"/> Extortion (EXT)    |
| <input type="checkbox"/> Corruption (COR) (See Section F if applicable)               | <input type="checkbox"/> Loansharking (LNS) |
| <input type="checkbox"/> Illegal Gambling (IGM)                                       | <input type="checkbox"/> Drugs (DRS)        |
| <input type="checkbox"/> Other (OT), specify _____                                    |   |

**D. Organized Criminal Group**

1. LCN:  Member (MEM)  Associate (ASO)
- |                             |   |   |  |   |
|-----------------------------|---|---|--|---|
| <input type="checkbox"/> BU | <input type="checkbox"/> KC                           | <input type="checkbox"/> NO                 | <input type="checkbox"/> NY - Luchese (LU)       | <input type="checkbox"/> RC - Rochester |
| <input type="checkbox"/> CG | <input type="checkbox"/> LA                           | <input type="checkbox"/> NY - Bonanno (BO)  | <input type="checkbox"/> PH                      | <input type="checkbox"/> SF             |
| <input type="checkbox"/> CV | <input type="checkbox"/> MI                           | <input type="checkbox"/> NY - Colombo (CO)  | <input type="checkbox"/> PX                      | <input type="checkbox"/> SO - San Jose  |
| <input type="checkbox"/> DN | <input type="checkbox"/> NK - De Cavalcante           | <input type="checkbox"/> NY - Gambino (GA)  | <input type="checkbox"/> PG                      | <input type="checkbox"/> SL             |
| <input type="checkbox"/> DE | <input type="checkbox"/> NE - New England - Patriarca | <input type="checkbox"/> NY - Genovese (GE) | <input type="checkbox"/> PI - Pittson - Bufalino | <input type="checkbox"/> TP             |

Position:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Boss            | <input type="checkbox"/> Consigliere (CNS) | <input type="checkbox"/> Capo (CPO)    |
| <input type="checkbox"/> Underboss (UBS) | <input type="checkbox"/> Acting Boss (ABS) | <input type="checkbox"/> Soldier (SOL) |

2. Other Non-LCN OC Groups, specify \_\_\_\_\_  Member (MEM)  Associate (ASO)

**E. Business Influenced/Affected** (If applicable) Indicate below if the subject's criminal activity influenced or affected a particular trade industry:

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> Toxic Waste (TW)         | <input type="checkbox"/> Building Trades (BT)   | <input type="checkbox"/> Entertainment (ET)  | <input type="checkbox"/> Hotel/Restaurant (HR) |
| <input type="checkbox"/> Carting (CR)             | <input type="checkbox"/> Meat/Poultry/Fish (MT) | <input type="checkbox"/> Garment (GR)        |  |
| <input type="checkbox"/> Vending (VN)             | <input type="checkbox"/> Shipping (SH)          | <input type="checkbox"/> Trucking/Trans (TT) |  |
| <input type="checkbox"/> Other (OT) Specify _____ |   |  |  |

Name of company subject connected with \_\_\_\_\_

**F. Elected/Appointed Public Officials** - Complete if subject was a public official at time of indictment and/or conviction. Indicate one category.

- Level -  Federal (FD)  State (ST)  Local (LO)  
Branch -  Executive (EX)  Legislative (LE)  Judicial (JD)

Position/Title:

- |  |   |   |  |   |
|--|---|---|--|---|
| <input type="checkbox"/> Governor (GV)             | <input type="checkbox"/> Mayor (MY)       | <input type="checkbox"/> City               | <input type="checkbox"/> House of Rep/Staff (HR) | <input type="checkbox"/> Prosecutor (PR)              |
| <input type="checkbox"/> Lt. Governor (LG)         | <input type="checkbox"/> County Comm (CC) | <input type="checkbox"/> Senator/Staff (SE) | <input type="checkbox"/> Judge/Magistrate (JM)   | <input type="checkbox"/> Law Enforcement Officer (LE) |
| <input type="checkbox"/> Other (OT), specify _____ |   |   |  |   |

**G. Union Members or Officials** - If the subject was a Union member or official at the time of indictment and/or conviction, indicate the position the subject held/holds in the Union and the Union's name.

Name of Union \_\_\_\_\_

Union Affiliation:

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> Teamsters            | <input type="checkbox"/> Hotel and Restaurant Employee | <input type="checkbox"/> Laborers International | <input type="checkbox"/> Longshoremen's Association |
| <input type="checkbox"/> Other, specify _____ |  |   |   |

Level -  International  Conference  Council  Local - Local No. \_\_\_\_\_

Position:

- |  |   |                                       |                                       |   |                                      |
|--|---|---------------------------------------|---------------------------------------|---|--------------------------------------|
| <input type="checkbox"/> Pres (PR)                 | <input type="checkbox"/> Sec/Treas (ST)   | <input type="checkbox"/> Repr (RP)    | <input type="checkbox"/> Fin Sec (FS) | <input type="checkbox"/> Clerk (CL)     | <input type="checkbox"/> Trustee (T) |
| <input type="checkbox"/> Vice Pres (VP)            | <input type="checkbox"/> Ex Brd Memb (EB) | <input type="checkbox"/> Orgzr (OR)   | <input type="checkbox"/> Rec Sec (RS) | <input type="checkbox"/> Shop Stew (SS) |                                      |
| <input type="checkbox"/> Tres (TR)                 | <input type="checkbox"/> Bus Agt (BA)     | <input type="checkbox"/> Bus Mgr (BM) | <input type="checkbox"/> Off Mgr (OM) | <input type="checkbox"/> Memb (ME)      |                                      |
| <input type="checkbox"/> Other (OT), specify _____ |   |                                       |                                       |   |                                      |

**Supplemental Page to the Accomplishment Report (FD-515)  
for Organized Crime/Drug (OC/Drug) Program Matters or  
Violent Crimes/Major Offenders (VCMO) Program Matters  
relating to street gangs involved in drugs.**

*This supplemental page is required with the FD-515 when a field office has either disrupted or dismantled an organization under the OC/Drug Program or the VCMO Program relating to street gangs involved in drugs.*

Subject Name: \_\_\_\_\_

Field Office File Number: \_\_\_\_\_

A. For the Subject identified on Section "L" of the FD-515, was the Subject's Role in the Organization/Enterprise (check only one): **Mandatory**

Leadership                       Associate/Member                       Other

B. The investigative efforts resulted in the (check only one): **Non-Mandatory**

**Disruption** of a Drug Organization/Criminal Enterprise

or

**Dismantlement** of a Drug Organization/Criminal Enterprise

Note: A disruption should only be claimed once per event.  
A dismantlement should only be claimed once per organization.

C. As to the Organization/Enterprise Disrupted or Dismantled, the scope of the Organization/Enterprise was (check only one): **Only Check if B was Claimed**

International                       National                       Regional                       Local

D. Case file serial(s) in which disruption/dismantlement is documented: \_\_\_\_\_

#### Definitions

- A. **Disruption** occurs when the normal and effective operation of a specific enterprise is significantly impacted as a result of an affirmative law enforcement action, including (but not limited to) the indictment/conviction of the organization's leadership. A substantial seizure of the organization's assets may constitute a Disruption if the organization's operations are significantly impacted by the event.
- B. **Dismantlement** occurs when an organization's structure is removed to the extent that it no longer operates as a coordinated organized criminal enterprise, and that removal is a result of an affirmative law enforcement action as outlined above. Further, if any components of the organization remain, their ability to re-form into another such organized criminal enterprise is not possible for an extended period of time.
- C. As to the scope, although the membership of an organization/enterprise may have contacts or relationships with persons or entities in other countries, regions or states, Section C describes the primary scope of operations and influence of the organization/enterprise. "International" and "Local" Organizations/Enterprises are self-explanatory. "Regional" Organizations/Enterprises are multi-state (or multi-metropolitan area in a large state). "National" Organizations/Enterprises are multi-region.
- D. May be any case file communication or document describing the events resulting in the reported disruption/dismantlement, and the nature of the organization/enterprise as contained in Sections B and C.

Note:

Divisions currently are to communicate significant investigative developments (such as disruptions/dismantlements) to FBIHQ substantive units.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** **FD-761 Public Corruption Data Transmittal Form**  
**Date:** March 31, 1998

Form FD-761 was previously utilized for statistical purposes by the Public Corruption Unit, Criminal Investigative Division. However, the use of this form was terminated in 1995. Since the form is no longer in use, it would be difficult to articulate harm or risk of circumvention of the law. Therefore, none of the information contained on this form is exempt pursuant to (b)(7)(E).

In certain instances, the code asserted for the subject (public official) in item number 6 of the form may warrant protection pursuant to (b)(7)(C).

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Fugitive Requesters  
**Date:** March 31, 1998

The issue of FOIPA requests from or on behalf of fugitives was decided in Doyle v. United States Department of Justice, 668 F.2d 1365 (D.C. Cir. 1981). Invoking the equitable doctrine that "those who demand equity must come into court with clean hands," the court ruled that a fugitive cannot seek assistance from the courts in his FOIPA claim because he has removed himself from the jurisdiction of the courts. Thus, FOIPA requests from fugitives should be denied the release of any material and the request suspended at the outset.

**Procedures for Handling a FOIPA Request  
Involving a Fugitive**

b2  
When reviewing files responsive to a FOIPA case which may involve 88 classifications or information contained in any security or criminal investigative file, the LT or PLS should immediately determine if the fugitive requester has been apprehended and the status of the overall case. In some instances, it may be necessary to contact the **Violent Crimes/Fugitive Unit on extension** to obtain this information. If determined that the subject has been apprehended and the case is closed, the file or information may be processed under normal guidelines. However, if the subject is still considered a fugitive, then the file(s) should not be released to the requester. The LT/PLS should advise the Team Captain and/or the Unit Chief and, if not already done, the Fugitive Unit should be notified and provided with all pertinent information pertaining to the FOIPA request. A response to the fugitive requester will be determined on a case-by-case basis.

The following is an excerpt of the response which was made in the aforementioned Doyle v. DOJ lawsuit:

"In view of the fact that (subject's name) remains in a fugitive status, a determination has been made that it would be improper for this Agency to make any records pertaining to your client available pursuant to the Freedom of Information and Privacy Acts, and therefore, this office is suspending further processing. This condition can be remedied by the resolution or termination of (subject's name) fugitive status."

"This response is not a denial of records. However, if you construe this response to be a denial, you may appeal . . ."

~~SECRET~~

F O I P A

MEMO 47

M A N U A L

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: [REDACTED] Liaison with  
Date: May 15, 1998

b7D

b7D

[REDACTED]  
and the [REDACTED]

b1.

[REDACTED] (S)

All information concerning the above foreign law enforcement agencies is to be classified "Secret" in accordance with Executive Order 12958, Sections 1.5 and 1.6(b)(5), (d)(6) and Section 3.4(6). (U)

5/15/98  
CLASSIFIED BY: SP7-ci  
REASON: 1.5 (B,D)  
DECLASSIFY ON: X5, 6

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
EXCEPT WHERE SHOWN  
OTHERWISE

~~SECRET~~

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** High Visibility Electronic Communications (ECs)  
**Date:** March 31, 1998

**Purpose:** A High Visibility EC is prepared by a PLS prior to a release of documents in cases where the release is likely to result in publicity. The memo is brief in content but contains enough information to inform the OPCA Front Office and the Director's Office of possible publicity and the resulting inquiries from the press and/or public.

High visibility ECs are notices of proposed action and not requests for approval. They should include language to the effect that the release will be made upon return of the communication. Please do not include language indicating that the release will be made upon approval. The FOIPA Section Chief is to be notified upon return of the communication with an indication evidencing the fact that it has been read in the OPCA Front Office and/or the Director's Office.

**When to prepare High Visibility Communications:**

High visibility ECs are prepared whenever:

A) the requester is:

1. A current high Government official, i.e., President, Vice President, Cabinet Level official, Supreme Court Justice, House and Senate leadership, Chairman or ranking members of a committee having oversight of the FBI, the Assistant Attorney General and above in the Department of Justice and United States Attorneys.
2. Any other individual who may have personal contact with a high level FBI official.
3. Persons who may be high profile public figures, e.g., Presidential candidates, civil rights leaders, corporate or union leaders.
4. Any other requester who has received recent substantial press notoriety.

**FOIPA Numbered Memo 48**

Page 2

**High Visibility Electronic Communications (ECs)**

B) the FOIPA release may result in the accusation of improper FBI activities.

C) whenever the requester has the ability and intent to disseminate information to the public (typically requesters associated with the media, authors or journalists) and the subject matter:

1. Is or was a person in the public eye, e.g., public officials, entertainers, sports figures, persons prominently associated with a course or movement, etc.
2. Is controversial, derogatory, or shows improper activity on the part of the subject not previously known.
3. Relates to FBI internal administrative matters, e.g., use of representation funds, Office of Professional Responsibility summaries, shooting incident reports, schedules or telephone logs of high Bureau officials, or disclose the individual activities of the Director or other Bureau officials.
4. Has received recent publicity.
5. The request involves a deceased Congressman or other significant political figure. ( It is OPCA's policy to contact the next of kin, advising of the release and providing a copy of the release. Therefore, one week prior to the release to the requester, a copy of the release package should be forwarded to [REDACTED] OPCA, Room 7240, for delivery to the next of kin.)

b6

If the need for the high visibility is questionable, contact [REDACTED] for requests involving political figures on extension [REDACTED] or [REDACTED] on extension [REDACTED] for all other matters.

b6  
b2

**Information to include in the EC:**

The EC should be limited to one or two pages and include the following:

- 1) The identity of the requester.
- 2) The subject of the request.
- 3) The date of the request.
- 4) The number of pages to be released.



**FOIPA Numbered Memo 48**

Page 3

**High Visibility Electronic Communications (ECs)**

- 5) A brief summary of the material processed and the type of classification, i.e., Bank Robbery, Special Inquiry, etc. (Do not include the actual file number or caption of the investigation.)
- 6) A statement on whether or not derogatory information was found in material processed and, if so, a brief description of the derogatory information.
- 7) A characterization of the exemption(s) asserted, e.g., "unwarranted invasion of personal privacy" instead of "(b)(7)(C)."
- 8) Language indicating that the release will be made once the EC is returned to the FOIPA Section.

**Approval Process for the EC:**

Prior to preparing an EC in final form, a rough draft is to be submitted to the PLS's Team Captain, Unit Chief, the Public Information Officer and the FOIPA Section Chief for any revisions.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Historical Processing of FBI Documents under the FOIA  
**Date:** March 31, 1998

The policy of the FOIPA Section for processing historical FBI cases under the FOIA is governed by the guidelines as set forth in 28 CFR 50.8 and the agreement with the National Archives and Records Administration ( NARA) dated 9/4/84, which authorizes the transfer of files to NARA for permanent retention.

Any file in which the last serial is dated more than 50 years ago will be presumptively historical. It is noted that there will be cases which will qualify for historical processing well before the 50 years and approval for such processing will be given on a case-by-case basis by the Section Chief or the Public Information Officer.

In processing historical files, as defined above, **only the first clause of Exemption (b)(7)(D)** will be implemented in order to protect the identity of sources of information, including institutional sources, and/or informants with either an implied or express promise of confidentiality, but only to the extent that the information would tend to identify those individuals and/or institutions. **On rare occasions the second clause may be applied**, however, where the information would not harm or identify the source, it should be released.

Information will continue to be protected which is exempt from disclosure by another statute or which is properly classified. In addition, **Exemption (b)(2)** will only be asserted to protect permanent symbol source numbers and T-symbols in conjunction with (b)(7)(D).

**Exemption (b)(5) should not be used** to protect the internal deliberative process. Likewise, it is difficult to imagine investigative techniques, unless classified, which continue to warrant protection today; therefore, assertions of **Exemption (b)(7)(E)** is unlikely.

Requests for 50 year old documents concerning an individual for whom there is no evidence of death or notarized authorization will continue to receive third party live responses unless the individual would be more than 100 years old at the time of the request. Any individual known to be 100 years old or older will be presumed dead and should not be afforded any privacy protection under Exemptions (b)(6) or (b)(7)(C).

The privacy rules for third parties mentioned in any high profile investigation being processed under historical guidelines will be determined on a case-by-case basis. The age of the

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**Historical Processing of FBI Documents under the FOIA**

document/information being processed will be a critical factor in this decision as well as if the investigation received wide publicity. The decision to release names and information pertaining to third parties mentioned in the file should be discussed between the PLS and the Team Captain and must have the approval of the Section Chief.

**F O I P A**

# MEMO 50

**M A N U A L**

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Hoover's Official and Confidential Files (O & C Files)  
**Date:** March 31, 1998

b6 J. Edgar Hoover's Official and Confidential (O&C) files are currently preprocessed and have been the subject of litigation with FOIPA requester, [REDACTED]. The O&Cs consist of 164 "folders" on various individuals and topics. There is also a folder which contains the numerical listing of these individuals and topics.

**The O&Cs are indexed to the central records system by use of file number 62-116606-1.** This number corresponds to Hoover's index boxes which contain hundreds of index cards and is maintained in the Special File Room (SFR) along with the 164 folders.

When this file number appears on the search slip, it's an indication that your subject is indexed to the O&Cs. At this point, send the search slip (the same one that came back from the 190 Processing SubUnit with the 62 number listed) to the SFR with a notation that you need search results of 62-116606-1 to be listed on the attached search slip. SFR will conduct a search of 62-116606-1 and will write on the bottom of the search slip exactly what appears on the index card(s). Subsequently, the SFR will determine where your subject is located in the O&C files by using the information on the search slip and the numerical listing of the folders. Once located, the SFR will provide the pertinent folder(s) to the LT or PLS who will review the material to determine if it's identifiable to the subject matter. If the LT or PLS determines the material to be identifiable, it will be necessary to obtain a copy of and review the preprocessed O&C material located in the FOIPA Reading Room.

When determining fees to be assessed or when processing a case, **it is important not to overlook 62-116606-1** because documents in the O&C file may be duplicate of regular Bureau file material or the O&C material may qualify as a main file or a main file equivalent.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** House Select Committee on Assassinations  
**Date:** March 31, 1998

**House Select Committee on Assassinations**  
**(HQ File 62-117290)**

The FBI was previously in litigation with requester, Mark Allen, for all material provided to the House Select Committee on Assassinations (HSCA) concerning its investigation into the assassination of President Kennedy. The House of Representatives joined the litigation in an attempt to claim Congressional privilege for all of the material connected to the HSCA investigation. This included all correspondence between the FBI and HSCA, as well as internal FBI communications. The HSCA's position was that these materials, as well as materials concerning its investigation of the assassination of Martin Luther King, are congressional documents and not agency records. (It is noted that the HSCA investigation of the assassination of Martin Luther King was not in litigation.)

b6 Questions concerning any material contained in Bufile 62-117290, or duplicate documents which may be unrecorded in other Bureau files, should be directed to [REDACTED] prior to any disclosure of material.

**Processing of Material Pertaining to La Costa Nostra Figures**

In connection with the investigation of the HSCA, and the request of Mark Allen for information provided to the HSCA, voluminous material was released pertaining to La Costa Nostra (LCN) figures.

b6 Employees who are processing a file containing information concerning any LCN figure should contact [REDACTED] to determine if and/or obtain any material which may be in the public realm.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Identification Records (Rap Sheets), NCIC and Interstate Identification Index (III) Printouts  
**Date:** March 31, 1998

### Identification Records of First Party Individuals

When processing a first party request, identification records (rap sheets), NCIC printouts and Interstate Identification Index (III) printouts located in FBI files pertaining to the requester should be released and the disclosure letter should include the following paragraph:

"The enclosed documents from our Central Records System (CRS) files contain a copy of an identification record or "rap sheet." We have released this rap sheet as it existed when it was placed in the CRS file; it may or may not reflect current information. If you want an up to date copy of the rap sheet, please comply with the instructions set forth on the enclosed copy of Attorney General Order 556-73. Fingerprint impressions are needed for comparison with records in the Criminal Justice Information Services (CJIS) Division to ensure that an individual's identification record is not disseminated to an unauthorized person."

A copy of Attorney General Order 556-73 is attached.

### Identification Records of Third Party Individuals

Please keep in mind that if the identification record, NCIC or III printout belongs strictly to a third party and it is not known if that person is deceased, it will be assumed he or she is living. In such cases, the identification record should automatically be withheld pursuant to Exemptions (b)(6) and/or (b)(7)(C). On the other hand, if the individual is deceased, it should be released in its entirety.

### NCIC Message Keys and ORI Numbers

Identification records (rap sheets), NCIC and III printouts may contain NCIC Message Keys and/or Originating Agency Identifier (ORI) numbers. These message keys and ORI numbers do not warrant protection pursuant to a FOIPA exemption.

A Message Key is a two-or three-character designator which identifies the type of entry or

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**Identification Records (Rap Sheets), NCIC and III Printouts**

query sent. Although there are over 75 keys in present use, they will typically begin with the alpha characters "C" (Clear or Cancel), "E" (Enter), "M" (Modify), "O" (query), "X" (Clear), or "Z11" (Test). All letters in a Message Key are capital letters, and they generally appear at the beginning of a message. They often follow the entry code "MKE/", although they also appear in other places, such as in a header line, separated from the ORI by a period. (Note: the MKE/ code may also be followed by a narrative description of a message key for responses from system records.)

An ORI is a nine-character entry which identifies the agency entering the message, or another agency related to a previous NCIC message or event. ORIs begin with a two-letter state code, but may end in either a numeric or alphabetic character. They may or may not follow the entry code "ORI". They commonly appear in three places:

- 1) the beginning of a record, representing the agency requesting a record;
- 2) in the body of a record, representing the agency which entered the record; and
- 3) in an III record, following identification of an arrest event, representing the arresting agency.

Due to variances in state and federal system formats, the positions of message keys and ORIs may vary from record to record. In addition, anticipated changes in the NCIC system may create similar codes (An example is the proposed "CTI" identifier for courts issuing warrants.) The examples provided below are typical of how the codes may appear as discussed above:

1.) 2L0102077MJM QH.DCFBIWA36.NAM/ [REDACTED]

2.) 7L0102077MJM  
DCFBIWA36  
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR  
INQUIRY ON NAME [REDACTED] SEX/M RAC/W DOB [REDACTED]

NAME	FBI NO.	INQUIRY DATE
[REDACTED]	[REDACTED]	10/25/90

FINGERPRINT CLASS  
PO PI CO PO PM  
PI PM 10 PI 13

ALIAS NAMES  
[REDACTED]

IDENTIFICATION DATA UPDATED 10/16/90

b6

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**Identification Records (Rap Sheets), NCIC and III Printouts**

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE

FOLLOWING:

FBI

-FBI



b6

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX  
BY USING THE APPROPRIATE NCIC TRANSACTION.

END

3) QW.DCFBIWA36 NAM/BADGUY,JOHN T.DOB/010101

DCFBIWA36

NO NCIC WANT DOB/010101 NAM/BADGUY,JOHN T





**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Immigration and Naturalization Service (INS)  
**Date:** March 31, 1998

**INS Lookout and Stop Notices**  
**for NAILS And OASIS**

INS Lookout and Stop Notices regarding the National Automated Immigration Lookout System (NAILS) and the Operational Activities Specific Information System (OASIS) should be referred to INS before acknowledging the existence of this material to the requester. INS policy, in most instances, is to neither confirm nor deny the information to first and third party requesters.

**Referrals From INS Containing "Tentative Index Card" Documents**

Many referrals from the INS consist of only "TENTATIVE IDENT" index cards and the fingerprint classifications shown thereon which may or may not be identifiable with the subject of the request. Any such referrals sent to FBIHQ will be handled in RMU.

In responding to the requester concerning these INS referrals, the following two paragraphs should be utilized:

"This is in reference to your Freedom of Information-Privacy Acts (FOIPA) request sent to us from the Immigration and Naturalization Service (INS)."

"The INS referred information originating with the FBI Criminal Justice Information Services (CJIS) Division (formerly known as the Identification Division) which may or may not be identifiable with the subject of your request. In order to access CJIS Division records responsive to your request, you will have to comply with the enclosed instructions set forth in Attorney General Order 556-73. Fingerprint impressions are needed for comparison with records in the CJIS Division to insure that an individual's record is not disseminated to an unauthorized person."

In closing the case, the FOIPA computer sheet should be closed by checking the "Miscellaneous" box (item number 9) from block 17 along with the date being closed, then the notation "Ident Pitch sent" should be written in block 15.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Informant Files, Requests for  
**Date:** March 31, 1998

### Establishing an Informant

#### I. Background:

An informant is defined as any person or entity who furnishes information to the FBI on a confidential basis. (MIOG Section 137-1). Although many informants are able to furnish information because they are criminals themselves or are directly involved with criminals, others, such as confidential sources, are not criminals or involved in criminal activities. Confidential sources are defined as those who provide information to the FBI on a regular basis as a result of legitimate employment or access to records, not as a result of association with persons of FBI investigative interest. [(MIOG Section 137-1.1(7)] Thus, an "informant" can be a hardened criminal, an honest office worker who happens to have access to relevant records, or a high-level official who would be appalled to learn he had been characterized as an "informant." The hardened criminal, of course, normally becomes an informant because he expects to benefit from the relationship, such as by receiving payment for information or a reduction of pending charges against him. The high-level official would likely offer his services out of a sense of duty and would probably refuse any payment for information provided.

Informants should not be confused with Cooperative Witnesses. A Cooperative Witness is an individual who, on a continuing basis and under the direction of an agent, contributes substantial operational assistance to the resolution of a case through active participation in the investigation. Although that individual's relationship with the Government is concealed until testimony is required at trial, he is treated as a witness and not opened as an informant. (MIOG Section 137-1.2.)

When a field agent recognizes that an individual has informant potential, he opens an informant file for the purpose of conducting a "suitability and pertinence inquiry." This inquiry, usually completed within 120 days, is intended to determine the suitability of the person as an informant and the pertinence of the information he is likely to provide. At the end of the inquiry, the field supervisor must make a written finding whether the individual should be converted to an operational informant. If the case is closed because the individual is not suitable for an informant, all information volunteered by the individual regarding his background and substantive matters

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### Informant Files, Requests for

may be retained by the field office, however, current procedures require the field office to destroy all other information regarding the individual which was obtained without his consent. [MIOG Section 137-3.1.3(2)] If the individual is certified as an operational informant, the field agent gives the informant a number of admonishments regarding his status and activities, which usually clearly indicates that the FBI considers the individual an informant. Confidential Sources are given only a few admonishments which may not clearly indicate their status.

Only a small portion of the considerable paperwork which is generated in the field will be included in the FBIHQ informant file. In general, the FBIHQ file will contain only records of an administrative nature: the opening communication, the communication which converts the individual's status to that of a certified operational informant, requests from the field for funds to operate the informant, and communications concerning problems with the informant such as unauthorized criminal activity. The field office file, on the other hand, contains not only the administrative information, but also detailed substantive information received from the informant pertaining to crimes. This substantive information, generally contained in an FD-306 or FD-209, may be summarized in a communication to FBIHQ requesting funds to pay the informant, so at least some substantive information will be found in the FBIHQ file.

In order to avoid security problems inherent in the transmittal of informant files between offices, an informant file is generally processed for FOIA purposes by the office where it is located: field office files are processed by the field and FBIHQ files are processed by FBIHQ. This procedure can be changed only in exceptional cases and with the approval of the Section Chief. The classifications which should be processed as informant type files are: 134, 137, 170 (obsolete) and 270. The PLS should be alert for any informant information in the main investigative file which is also contained and being protected in the main informant file.

### Processing Guidelines for Informant Files

Given the background circumstances, the processing guidelines which follow are meant to accomplish the following ends: 1) to protect the safety of informants who have submitted FOIPA requests under duress or who do not appreciate the dangers inherent in their requests; 2) to protect the viability of the informant program; 3) to protect the privacy of third parties named in informant files; 4) to protect ongoing investigations; 5) to protect the techniques involved in developing, operating, and evaluating informants; and 6) to avoid alienating confidential sources. The guidelines are not rules which must be followed even when the facts of an exceptional case require a different approach: they are some functional frameworks in which most informant file requests can be handled with the aforementioned goals in mind. Unusual cases should be referred to a FOIPA Section Supervisor and/or the substantive Division for advice.

**II. First Party Requests:**

**A) Requester's Incarcerated:**

If the requester is incarcerated and has not specifically requested his informant file

b2 [REDACTED] if the requester specifically mentioned his informant file in the request letter, the procedures in paragraph (C) should be followed after discussion with the Team Captain and/or Unit Chief.

**B) Requester is Not Aware of "Informant" Status:**

If the requester is not incarcerated and is unaware of his status as an informant or of the existence of his informant file,

b2 [REDACTED] In essence, the requester should be treated as a Cooperative Witness: the information he furnished should be processed using the pertinent exemptions [i.e., exemptions (b)(2), (b)(7)(A), (b)(7)(C), and (b)(7)(E)] except for exemption (b)(7)(D). Determining that a requester is unaware of his status as an informant is a matter of judgment. Some factors which may lead to such a conclusion are the following: 1) the requester was never certified as an operational informant; 2) the requester never furnished any information of value; 3) the requester was never paid, or never signed anything as an informant; 4) the informant file contains only a few serials; and 5) the requester's letter does not specifically indicate a desire for his informant status, his informant file or the confidential information he provided to the FBI.

**C) Requester is Aware of "Informant" Status:**

If the requester is not incarcerated and is aware of his status as an informant or the existence of his informant file, the field office which operated the informant should be notified of the request.

b2 [REDACTED]

b2 The outgoing FOIPA Section's electronic communication to the field should advise the

[REDACTED] and coordinate the matter with the

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**Informant Files, Requests for**

Informant Unit.

**D) Informant Status Officially Confirmed:**

If the requester is not incarcerated, is aware of his informant status/file, and he advises the request was **submitted voluntarily**, then a determination must be made as to whether the requester's informant status has been officially confirmed such as through testimony in open court or an official media release. When there has been no such official confirmation, the full range of applicable exemptions, to include exemption (b)(7)(D), can be used to avoid confirming the informant's status by the release. When there has been official confirmation through testimony or an official media release, the information which was publicly disclosed and which can be identified as such in FBI records is subject to release; the remaining information should be processed using the full range of relevant exemptions.

**III. Third Party Requests:**

If information about or from an informant is requested by a third party, the Case Agent handling the informant should be advised at once.

After first considering the (c)(2) exclusion, all of the potentially applicable FOIA exemptions should be considered. If an informant has been officially disclosed, only information concerning his identity as an informant and information about others which has been previously disclosed will be provided to the requester.

**IV. The Exemptions:**

In addition to the manner in which the FOIA exemptions are normally used, the following applications should be considered for informant files:

Exemption (b)(2) may be used to protect informant symbol numbers, informant code names, and the designation "informant" or its equivalent in a file. This exemption would be most useful in those situations where the requester was not yet aware that he was being considered to become an informant or when his informant status has not been officially confirmed.

Exemption (b)(7)(A) may be used if disclosure would reveal the direction of, or otherwise interfere with, a pending investigation. This may occur, for instance, when a report of an informant interview includes only some of the information furnished by the informant. The selective inclusion of information in the report may reveal the focus or direction of an investigation. Since even a thorough review of a file may not indicate whether disclosure could reasonably be expected to interfere with an investigation, it is recommended that the PLS discuss the matter with the case agent for the informant or investigation in question.

Informant Files, Requests for

Exemption (b)(7)(C) may be used to protect the privacy rights of third parties mentioned in an informant file. Although one factor weighing in favor of disclosure is the public interest in ensuring that information is recorded properly in government files, the other side of the balance, at least where the informant receives some form of consideration or payment for the information, will include the notion that the proprietary right to that information has passed from the informant to the government. That factor, when combined with the traditional privacy concerns inherent in such information, will usually outweigh the factors favoring disclosure, especially in light of the Supreme Court decision in Reporters Committee for Freedom of the Press v. Department of Justice.

As mentioned in Section II part D of this memo, the first clause of exemption (b)(7)(D) should be used when the requester's informant status has not been officially confirmed. Thus, we would withhold any information which could reasonably be expected to disclose that the requester had been an informant. When the requester's informant status has been officially confirmed, exemption (b)(7)(D) can be used to withhold any information which could reasonably be expected to disclose that the requester had been an informant on matters which were not disclosed in the "official confirmation." Exemption (b)(7)(D) would also apply to information which had been provided by others on a confidential basis such as information provided by a local police department concerning the informant's criminal activities. It should be noted, however, that much of the substantive information provided by the requester will be withheld under exemption (b)(7)(C).

Exemption (b)(7)(E) may be used to protect FBI techniques involved in developing, operating, and evaluating informants which are not well known to the public.

Exemption (b)(7)(F) may be used to protect the physical safety of any individual, including the informant/requester.

b2 In a particularly sensitive case, additional measures [REDACTED] could be considered. Such action should only be taken after careful consideration and only with the approval of the Unit Chief and/or Section Chief personnel.

b2 Finally, the Criminal Informant (Ext. [REDACTED] Room [REDACTED] Witness Security Programs Unit (Ext. [REDACTED] Room [REDACTED]) should be consulted prior to disclosing any information concerning an informant.

To: All FBI FOIPA Personnel

From: J. Kevin O'Brien

Subject: [REDACTED] b2/b7E

Date: March 31, 1998

b2  
b7E

The [REDACTED] is an extremely vital and sensitive program the existence of which is protectable under Exemptions (b)(1) and (b)(7)(E). The program is further characterized in the following excerpt from a R. M. Bryant Memorandum to Mr. Baugh dated 3/28/94:

b2  
b7E

"As the lead agency for counterterrorism within the U.S., the FBI has developed and implemented an [REDACTED] to reduce the threat of terrorist violence [REDACTED]. The objective of this proactive FBI project (as defined by Executive Order 12656, signed by former President Reagan on 11/18/88) is to identify [REDACTED] where necessary, and by doing so, to facilitate the protection of the U.S. infrastructure."

"Our infrastructure is defined as a system of interdependent networks [REDACTED]

b2  
b7E

[REDACTED]

b2  
b7E

[REDACTED]

"It is important to note that although individual assets can be advised of their designation, the comprehensive list cannot be disseminated in its entirety outside the FBI. This restriction is based on the security classification [REDACTED]

b2  
b7E

[REDACTED]

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 9/2/98 BY [Signature]



[REDACTED]

b2/b7E

b2  
b7E

[REDACTED]

"If you have any further questions, do not hesitate to contact the Counterterrorism Section, Counterterrorism Planning Unit, National Security Division, at extension [REDACTED]"

b2

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Institutional Sources and Information Provided by Them  
**Date:** March 31, 1998

On May 24, 1993, the Supreme Court issued a ruling in the civil litigation of DOJ vs. Landano that had a significant impact in regard to the protection of confidential law enforcement sources under exemption (b)(7)(D). The Supreme Court's decision basically stated that a confidential relationship cannot be inferred with every individual or institution contacted by the FBI during the course of a criminal investigation. As such, one difficult area that was affected in the Landano ruling was the protection of institutional sources, i.e., commercial and financial institutions, especially where the information provided by such a source is of a "routine" nature.

However, there are certain circumstances in which we may be able to demonstrate implied confidentiality where the focus is on the nature of the information provided, and the proposition that, where an institution provides information that the subject would not want given out, it may be concluded that the institution was doing so with a tacit understanding of confidentiality.

The approach in this regard would be to infer that an institution providing information to a federal law enforcement agency is acting with implied assurances of confidentiality whenever it is providing information that it would not normally make available to the public. The FBI may be able to support such an approach if it can demonstrate that particular sources or categories of sources are known to have policies restricting the public dissemination of the type of information in question. In this respect, the courts may take a narrower view of implied confidentiality in this context, and may be willing to find implied confidentiality only where the information provided is of a sensitive nature. Examples of communications where we may be able to characterize as "confidential" under this theory include the following:

1. Institutions providing financial information about the subjects of investigations, other persons suspected of involvement in criminal activities, or criminal organizations or their members.
2. Institutions providing information about the activities of suspects or members of criminal organizations, e.g., specific telephone calls made by them.
3. Institutions providing derogatory information, or intimate or embarrassing personal information about any person.

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**Institutional Sources**

4. Institutions providing assessments about the character or work of employees, if the information concerns a criminal suspect or is derogatory.

In other circumstances, involving less sensitive types of information, a theory of implied confidentiality will be more difficult to justify in the absence of some indication that the source treated the information as confidential. Examples of such information include the following:

1. Information concerning vehicle registration or ownership from motor vehicle departments.
2. Information about the fact that utility services were provided at particular locations and dates.
3. Routine information from state or local prison officials, such as release dates, etc.
4. Routine information provided by employers about starting and ending dates of employment, salaries, etc.
5. Contacts in which no information was provided or, on the other hand, where innocuous/unimportant information was provided.
6. Routine law enforcement record checks or credit checks.

In all of the above examples, it should be kept in mind that the identities of persons contacted at such organizations and supplying the information to the FBI should be protected under Exemption (b)(7)(C), unless such persons are known to be deceased. In the same respect, should the information itself pertain to a third party individual, the name(s) and any identifiers concerning the individual(s) should likewise be protected pursuant to Exemption (b)(7)(C).

In applying the standards of the Landano ruling, it should be kept in mind that this only affects the application of implied confidentiality. Wherein a confidential relationship does exist by virtue of an "expressed" or "specific" request of confidentiality, exemption (b)(7)(D) will be applied to protect the identity of the source, as well as, the information provided by the source. However, if the information would not tend to identify the source, it may be released as addressed in Attorney General Janet Reno's policy of discretionary disclosure of October 1993.

The following institutional sources have requested confidentiality as indicated:

- 1.) [REDACTED] Information

b7D

[REDACTED] requires a subpoena duces tecum before substantive [REDACTED] file information

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Institutional Sources

b7D is released if an investigation is not related to a violation against [REDACTED]. In addition, [REDACTED] policy requires that the customer whose records are being sought must be advised of the issuance of the subpoena unless the subpoena directs [REDACTED] to refrain from notifying the customer.

b7D Therefore, information from [REDACTED] should be considered as having been furnished under a promise of confidentiality if the document containing the [REDACTED] information does not mention whether [REDACTED] notified its customer. Assume it did not and protect the information under exemption (b)(7)(D) pursuant to an "express" grant of confidentiality. However, if [REDACTED] advises the customer that it has furnished information to the FBI, [REDACTED] should be considered to have waived its confidentiality rights and the information may be released in first party requests. Privacy issues may be warranted and the appropriate exemptions asserted when the information pertains to third party individuals.

b7D 2.) [REDACTED] Checks

b7D [REDACTED] liaison for Federal Customers has requested confidentiality in criminal and civil matters for future and past information. Exemption (b)(7)(D) should be asserted to protect [REDACTED] and the information provided.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** **Interesting Case (I.C.) Memoranda Located In FBI Files**  
**Date:** March 31, 1998

**Interesting Case (I.C.) Memoranda Located in Bureau Files**

I.C.s were originally created by the public relations staff for the media and the public. These narratives consist of approximately 2-12 pages, span the years 1932-1972 and can be identified by the letters "I.C. file No. ..." located at the top left corner of the document. As all I.C.s have been publicly disclosed, they can be released in their entirety without redactions.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Internal Revenue Service (IRS)  
**Date:** March 31, 1998

**Social Security Account Numbers**

When referring documents or information to the IRS, it has been requested that, when known, the Social Security Account Number (SSAN) of the FOIPA requester also be furnished. Generally, the SSAN is provided on the initial FOIPA request letter of first party requesters, however, extensive file reviews should not be conducted to ascertain the number. The SSAN assists IRS in locating the original copies of the records referred by the FBI.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Interview Notes; Special Agent  
**Date:** March 31, 1998

Special Agents are required to retain the handwritten notes they make during or after any interview if they anticipate the results will become the subject of testimony. These notes are usually identified as the "1A" portion of an FBI field office file.

Exercise care in processing the handwritten interview notes. Compare the typed FD-302 interview notes, normally located in a main section of the investigative file, with the handwritten notes to ensure that all applicable exemptions have been asserted and that the same information has been protected in a consistent manner. Remain alert for additional information contained in the handwritten interview notes, such as the Agent's idea of areas to be explored while questioning the interviewee, leads sent out, or information provided by the interviewee which does not appear in the typed FD-302 and process this information accordingly.

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: Investigations Conducted by the FBI  
Date: March 31, 1998

**Compromising the Investigation of an Organization  
Through Disclosure of a Member's File**

The purpose of this memorandum is to emphasize the importance of considering the full range of FOIA exemptions when processing material from organizational files of a security nature. For example, the FBI investigates organizations such as various mafia groups around the country and in the past, the FBI investigated various communist groups fronting as legitimate organizations. Pursuant to Attorney General guidelines, the number of domestic security investigations conducted on organizations have been reduced.

It is imperative that we process material from organizational files in a manner which will adequately protect the Bureau's penetration and the scope of the coverage. A situation which merits particular attention is a request from a member of an organization, "front," or other group for his or her individual file. The individual's file may be closed, while the investigation of the organization may be continuing and quite sensitive. Documents concerning the investigation of the organization may have been channelized into the individual member's file. This "channelization" of documents from an organizational file to an individual member's file was created so that FBI investigators could have all current investigative information concerning an investigative subject. The indication that a document has been channelized is generally determined by an analysis of the copy count area on the document. The copy count will indicate the subject name and file number of all investigative files in which a copy of the organizational document was to be placed.

In processing these types of investigative files, it is important to consider the use of the (c)(1) exclusion or the (b)(7)(A) exemption if the investigation of the organization is pending. In processing closed investigations, all applicable FOIPA exemptions should be considered.

In order to ensure that organizational investigations are not compromised and that they are adequately protected, a PLS should call the last section of an organization's file to determine whether the organization continues to be of investigative interest to the FBI. Consideration should also be given to consulting with the substantive Division if any doubt exists as to the status of the case. These same procedures should be used in FCI organizational files. In certain instances it might also be appropriate to follow these procedures in closed organization files



**Investigations Conducted by the FBI**

where a relationship might exist between the organization which was the subject of the closed case and another organization presently under investigation.

**Investigations in Foreign Countries**

The presence of an FBI Legat in a foreign country is at the pleasure of the host government. Any disclosure indicating that an investigation was conducted in a foreign country, by or on behalf of the FBI, may jeopardize the continued operation of our Legat in that country.

In processing FBI files, the PLS will ordinarily find documents reporting information from foreign agencies or authorities, however, the PLS may encounter documents which report FBI investigative activities in foreign countries. The latter type information is often classified and in such situations, Exemption (b)(1) should be cited to protect the information. Therefore, disclosure PLSs should be certain that information of this type is reviewed by the Document Classification Unit, keeping in mind this situation may also exist in non-security investigations. If the information does not warrant classification, the PLS should consult the Foreign Government Information Classification Guide (G-1)<sup>1</sup> to determine whether or not the foreign agency requests its information be protected and whether or not the foreign agency wants its relationship with the FBI made public. Some foreign agencies or authorities request that their information be protected; however, they do not object to their relationship with the FBI being made public. In those situations, the PLS would protect the foreign agency information pursuant to Exemption (b)(7)(D), but would release the identity of the foreign agency. Other foreign agencies request that both the information and their identity remain protected, and thus, all information would be redacted pursuant to (b)(7)(D).

Documents which often report foreign agency or authority information usually originate from an FBI Legat. It is important to note that even the "From" line in a Legat-authored communication can be sensitive information because it specifically identifies the host country and when combined with the details of the communication, reveals the fact that the host country has furnished information to the FBI. Situations do arise wherein the "From" line of a Legat communication is properly classified "Secret," which is possible even in criminal cases. If the document has been classified "Secret" in its entirety that classification covers the "From" line. If the document is not classified in its entirety the "From" line is not classified unless there is a classification marking opposite that line. In all cases where the document is not classified in its entirety and there is no classification marking by the "From" line, the same procedures should be followed as above in utilizing the G-1 guide. If there are any questions concerning the

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<sup>1</sup>The G-1 Guide provides instructions on the classification of national security information pertaining to foreign government information.

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**Investigations Conducted by the FBI**

classification of the "From" line, the PLS should contact the DCU PLS who reviewed the document for classification even if the case is of a criminal nature.

If the PLS has any questions concerning the application of exemptions to Legat/foreign government information and/or the Legat's activities in a foreign country, the matter should be discussed with the Team Captain and/or Unit Chief. If a disclosure is still contemplated after that point, the matter should be discussed with personnel from the International Relations Unit.

**Multiple Subject Investigations**

If the Team Captain and/or PLS determines that the requester is carried in a multiple subject investigation, it may be appropriate to check the other names with RTSS to determine if the file has been previously processed for another requester. It is recognized that privacy interests will dictate how much information will be provided other requesters; however, the possible use of Exemptions (b)(6) and/or (b)(7)(C) may depend on whether the information was withheld or disclosed in a prior release.

Since these multiple subject cases vary in their makeup, a hard and fast rule that other subjects' names should be checked for prior processing in every instance is not necessary. However, the advantages of uniformity in processing and the time saving factors should be carefully considered, resolving any doubts in favor of checking the indices.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Iran-Contra / Front Door Material  
**Date:** March 31, 1998

### Iran-Contra Investigation; Front Door Files

FRONT DOOR is the code word for the investigation conducted by the Office of Independent Counsel (OIC) relating to the Iran-Contra. Information pertaining to the Iran-Contra is filed in FBIHQ files 58-11887 and HQ 211-26.

If either of the above file numbers appear on a search slip, **DO NOT call the files and DO NOT PROCESS the files.** The Special File Room (SFR) controlled access to HQ 58-11887, but the SFR has released HQ 211-26 for review. If you should receive either of the above files, contact PLS [REDACTED] immediately. *bb*

The Office of the Independent Counsel on Iran-Contra has been disbanded and all of their material has been transferred to National Archives pursuant to Title 28, U.S.C., Section 594(k). Material indexed into 58-11887 or 211-26 will no longer be reviewed or processed by FBI PLSs and, where appropriate, the following paragraphs should be used for response to requesters:

#### A.) First Party Request Which Results in Cross-references

"A search of the indices to our Central Records System files at FBI Headquarters revealed material that **may or may not** be identical to you in files concerning the sale of arms to Iran and the possible diversion of proceeds from those sales to Nicaraguan "Contras." This material is located at the Office of National Archives. If you have further interest in "Iran-Contra" related material, you may wish to correspond directly with the Office of National Archives."

#### B.) Request for the Entire Investigation

"Reference is made to your request for material relating to the "Iran-Contra" investigation which concerns the sale of arms to Iran and the possible diversion of proceeds from those sales to Nicaraguan "Contras." This material is located at the Office of National Archives. If you have further interest in "Iran-Contra" related material, you may wish to correspond directly with the National Archives."

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Laboratory Notes  
**Date:** March 31, 1998

### FBI Laboratory Notes

The Scientific Analysis Section, Laboratory Division, has advised that it has no objection to the release of Laboratory notes and reports in Bureau cases. However, if such notes from this Section, or any other Section within the Laboratory Division for that matter, contain unique Laboratory exams or possibly unknown techniques, a Laboratory examiner should be consulted, preferably the examiner who made the notes, before such releases are made. If the original examiner is not available, the particular Unit Chief should be contacted for any questions or to review the proposed release of laboratory material.

In cases where the Laboratory examination was done at the request of a local or state police agency involving a matter over which they have exclusive jurisdiction, the Landano standard of processing must be applied if a specific request for confidentiality for the material was not indicated. On rare occasions, it may be necessary to contact the law enforcement agency for assistance or for further information to complete the analysis and processing of the case.

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: Legal Attache  
Date: March 31, 1998

### Search Procedures for Legal Attache (Legat) Files

b6  
When a request is made for a search to be conducted of the Legat files, the LT or PLS should complete and submit a search slip to the Special File Room, Room [REDACTED] to the attention of [REDACTED] b2. Indicate on the search slip that the scope of the search is for the "Automated" Data Base only, unless the FOIPA request letter specifically asks for the "Manual" indices to be searched or if the information being requested would in itself only be found in the manual index. Also, indicate that the type of search requested is "Legat Indices," specifying which Legat is to be searched (See sample attached). If an initial FOIPA request is received in RMU for a specific Legat, the search should be completed and the copies of the file(s) obtained prior to assignment of the request to a Disclosure Unit.

### Storage of and Obtaining Legat Files

On May 23, 1984, the Legat Micrographics Program was initiated to enhance security because of the potential hazardous environment of an overseas post and to relieve overcrowded file storage conditions in the Legats.

When an investigation has been closed in the Legat for 90 days, the raw file is sent to FBIHQ to be stored or placed on microfiche. A copy of the microfiche is furnished to the Legat and a copy is maintained at FBIHQ in the Micrographics Unit, Room [REDACTED], extension [REDACTED]. The 1A and Bulky Exhibits are not microfiched, only the covers to this material. If copies of the 1A or Bulky enclosures are needed, they can be retrieved from either Pickett Street or Boyers, Pennsylvania. If a copy of the file will suffice, the Microfiche can be duplicated and sent to the LT or PLS. If the raw material is needed, it will be retrieved by the Micrographics Unit and forwarded to the LT or PLS.

### Legat ELSUR Requests

If a request has been made for a search of a specific Legat's ELSUR indices, the requester should be advised there are no ELSUR indices in the Legats. The FBI has no authority to conduct ELSUR in foreign countries, therefore an ELSUR indices is not maintained.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Mail Covers  
**Date:** March 31, 1998

Mail covers are placed with the Postal Service and entail the Postal Service watching for and recording the addressee and addresser of all mail written to a particular individual or organization. The existence of a mail cover is not generally protected under Exemption (b)(7)(E); however, National Security mail covers are often classified and governed by Exemption (b)(1) law.

At times, unique circumstances may exist where information pertaining to a mail cover may need to be protected, such as when the mechanics/details of the mail cover (which are not generally known to the public) are set forth in an FBI record. Should it surface, the PLS may be able to protect those aspects of the mail cover under Exemption (b)(7)(E). In other instances in which mail covers were utilized, the assertion of Exemption (b)(7)(E) should be considered for cases recently closed by administrative means and did not reach a prosecutive status. If the case has the possibility of being reopened or a "spin-off" case was involved, the release of the fact a mail cover was utilized could be a detriment to the reopening of the investigation or any related pending investigations. Contact with the field office Case Agent is recommended in these situations in order to determine if there is a "foreseeable harm" in disclosure of the information.

**F O I P A**  

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**M A N U A L**

**MEMO 65**

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** **Manuals, FBI**  
**Date:** March 31, 1998

The following FBI manuals have been processed and are available for release:

- Manual of Administrative Operations and Procedures (MAOP)
- Manual of Investigative Operations and Guidelines (MIOG)
- Foreign Counterintelligence Manual (FCIM)
- National Crime Information Center (NCIC) Manual
- Legal Handbook for Special Agents

Inasmuch as these manuals are available for review in the FOIPA Reading Room and they undergo periodic changes, information being considered for release should be coordinated with Team Captain [REDACTED] or PLS [REDACTED] Unit 3, prior to any disclosure.

b6





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**National Center for the Analysis of Violent Crime**

Since April 1992, all opened and closed HQ 252 classifications have been manually maintained at Quantico as a part of the NCAVC record system (JUSTICE/FBI 015). The HQ 252 files generated prior to 1992 are maintained at Picket Street or Quantico. You should also be aware that NCAVC/VICAP manually maintains their equivalent 252 file classification and other file classifications concerning violent crimes investigated by the FBI (such as kidnaping, extortion or crime on government reservation) at Quantico.

The NCAVC is maintaining a control file, 190-IR-C-2246, for FOIPA requests involving 252 files and the other classifications, as described above. If an FOIPA search reveals that a 252 file or other classifications exists, the LT or PLS should:

- b2 1. Contact the Rotor Clerk for the NCAVC at [REDACTED] or 540-720-[REDACTED] or [REDACTED] in order to obtain the file(s) for duplication and processing.
- b2 2. EC or FAX a copy of the FOIPA request letter to the attention of the NCAVC/VICAP Unit Chief at (540)-720-[REDACTED] and the CIRG, Chief Division Counsel at (703)-640-[REDACTED]
3. Provide NCAVC with the requester's 190 file number and the FOIPA computer number.

Data concerning violent crimes is also stored in an automated data base maintained by the NCAVC in a separate FBI record system which is part of the NCAVC (JUSTICE/FBI-015). This data base contains information which is used in the overall VICAP Program. NCAVC/VICAP analyses the information in this data base to identify any common threads which might run through the various cases.

Components of the NCAVC/VICAP data base should not be searched unless the requester specifically asks that it be searched or includes information in his request letter which indicates it should be searched.

The information in the NCAVC/VICAP data base and the 252 VICAP files is exempt from access under the Privacy Act pursuant to exemption (j)(2). When processed under the Freedom of Information Act, the appropriate Exemption 7 provisions should be utilized in addition to any other applicable FOIA exemptions. In addition, contact and coordination should be made with NCAVC/VICAP when processing these cases.

Because of the sensitive nature of the techniques used by all NCAVC components in their development of unknown offender profiles, investigative recommendations, interviews and interrogation techniques, prosecutive and trial strategies, threat assessments, overall crime analysis, search warrant affidavits and expert testimony, the NCAVC should be consulted. Upon completion of the processing of the 252 file or other classification, the PLS should:

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**National Center for the Analysis of Violent Crime**

1. Provide NCAVC with a black-out copy of the proposed release for their review prior to disclosing any material to the requester.
2. Provide NCAVC with a copy of the final disclosure or denial letter. If the case is being closed administratively, notify NCAVC of this action and the reason for closing the case.

If the FBI receives an administrative appeal concerning the material from a 252 file and the DOJ/OIP attorney affirms the appeal, there is no need to advise NCAVC. If, however, the DOJ attorney suggests an amended release, consult with the NCAVC before agreeing to the release of additional material. Then provide NCAVC with copies of:

1. The requester's appeal letter.
2. The DOJ acknowledgment letter.
3. The DOJ letter advising requester of a remand or an amended release.
4. The FBI letter releasing the additional material.

If the FBI receives an appeal concerning one of the other file classifications, as described above, containing NCAVC material and the DOJ attorney affirms the appeal or the DOJ attorney recommends release of material that does not include the NCAVC material, there is no need to advise NCAVC of the appeal. However, if the DOJ attorney recommends the release of information of interest to NCAVC, consult with NCAVC before agreeing to the release of the additional material. Provide NCAVC with copies of items 1 through 4 above.

Be aware that much of the work done by NCAVC is for other federal (non-FBI), local and state law enforcement agencies, and there will be times when the FBI file is closed and the other federal, state or local investigation is still pending. The (b)(7)(A) exemption of the FOIA should be considered.

When processing a VICAP report, the PLS will release the cover page. For the report itself, the PLS will need to review the report to determine the origin of the information in the report. If the material in the report was furnished by a state or local law enforcement agency, the PLS will deny the report in its entirety citing Exemption (b)(7)(D) and if applicable Exemption (b)(7)(C). If the material in the report was furnished by a federal (non-FBI) law enforcement agency, the PLS will consult with the contributing agency.



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National Crime Information Center (NCIC)

- 1) the beginning of a record, representing the agency requesting a record;
- 2) in the body of a record, representing the agency which entered the record; and
- 3) in an III record, following identification of an arrest event, representing the arresting agency.

Due to variances in state and federal system formats, the positions of message keys and ORIs may vary from record to record. In addition, anticipated changes in the NCIC system may create similar codes. (An example is the proposed "CTI" identifier for courts issuing warrants.) The examples provided below are typical of how the codes may appear as discussed above:

1.) 2L0102077MJM .QH.DCFBIWA36.NAM [REDACTED]

2.) 7L0102077MJM  
DCFBIWA36  
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR  
INQUIRY ON NAM [REDACTED] SEX/M RAC/W DOB [REDACTED]

NAME	FBI NO.	INQUIRY DATE
[REDACTED]	[REDACTED]	10/25/90

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	BIRTH PLACE
M	W	[REDACTED]	5'11"	185	BRO	BRO	[REDACTED]

FINGERPRINT CLASS  
PO PI CO PO PM  
PI PM 10 PI 13

ALIAS NAMES  
[REDACTED]

IDENTIFICATION DATA UPDATED 10/16/90

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE  
FOLLOWING:

FBI -FBI [REDACTED]

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX  
BY USING THE APPROPRIATE NCIC TRANSACTION.  
END

3) QW.DCFBIWA36.NAM/BADGUY,JOHN T.DOB/010101

b6  
b7c

DCFBIWA36

NO NCIC WANT DOB/010101 NAM/BADGUY,JOHN T

### Stop Index in NCIC

The Bureau Stop Index Program was instituted in April, 1971. Essentially, it was a computerized file included in NCIC for intelligence purposes on individuals against whom warrants were not outstanding. NCIC queries by any NCIC user would result in a "No NCIC Want" response to that user, but would generate a special notice to the NCIC Control Room to notify the appropriate Field Office of the inquiry. The Program was discontinued in February, 1974.

NCIC has determined there can be no entry into NCIC except for categories of individuals or records published in the Federal Register pursuant to the Privacy Act. Consequently, language in FBI documents, especially form FD-305, such as "Stop Notice Placed with NCIC" or "Stop Notice Placed with the Bureau Stop Index" is not protectable under (b)(7)(E).

Please take the foregoing into consideration when processing documents pertaining to NCIC Stop Notices.

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: National Security Agency (NSA)  
Date: March 31, 1998

NSA Referral Policy

When any NSA originated document or information is located in an FBI file being reviewed for release under the FOIPA, no information will be released to the requester from that file or document until a referral is made to NSA and a response is received.

b3  
per  
NSA

[Redacted]

NSA will make reasonable efforts to respond to the referral within ten days (allow an additional ten days for mailing). Depending on the particular circumstances, NSA will advise

[Redacted]

b3  
per  
NSA

Time extensions can be arranged with NSA in those rare cases that involve voluminous referrals.

[Redacted]

b3  
per  
NSA

Since special clearances are normally required to handle NSA documents, the following individuals who have the proper clearances will handle all NSA referrals:

- Unit 1 - [Redacted]
- Unit 3 - [Redacted]

bb

If you locate an NSA document or NSA information in an FBI document while reviewing a file, refer the matter to the PLS listed above who is designated to handle NSA matters in your Unit. The designated PLS will review the document and instruct the PLS on how to handle the referral or, if the document contains information that is Sensitive Compartmented Information (SCI), he or she will handle the document. The NSA has requested that the FBI refer only one copy of the referred document(s). The designated PLS's name will be on all referrals as the

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**National Security Agency (NSA)**

b2 person for NSA to contact. After the referral is initialed for approval, the designated PLS will hand carry the referral to the Special File Room and an FD-501a form will be attached to the referral. The designated PLS will then hand carry the referral to the FBI's NSA Liaison Agent in Room [REDACTED]

When the referral has been returned by NSA, the designated PLS will hand carry the referral from the Special File Room and will handle the processing of the NSA information if it is SCI. If, however, the information is Top Secret (TS) or lower and not SCI, the PLS to whom the case is assigned will handle the returned referral since all FBI employees have access to TS information. The returned referral in all instances must be presented to Document Classification Unit. (See FOIPA Section numbered memorandum "Classified Material, Handling and Transmittal of" which provides instruction on handling TS/SCI information.)





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**Personnel Files**

Radio Maintenance Technician, and Special Employee files which may contain references or notations in the annual performance rating to security informants or the specific nature of FCI investigations handled by the employee; a synopsis of an FCI investigative matter handled by an employee as justification for a letter of commendation; in-service memos detailing the nature of FCI training; or material in the background investigation of the employee which may have been obtained from foreign police agencies.

(5) Prepare an addendum to the FD-488 (Privacy Act Request Form) setting forth the following: the reason for any excisions; number of pages withheld in their entirety, if any; and a description of the last document/serial in the file as of the time of processing. Since a formal disclosure letter is normally not prepared in connection with these reviews/releases, it is recommended that the employee initial the addendum as evidence of his or her understanding of the deletions made.

(6) The proposed disclosure must be reviewed by a Team Captain.

(7) Contact the employee and make an appointment to review the file. If possible, provide an appropriate location where the review can be conducted other than the PLS's work area. If the employee is not located at FBIHQ and is not in a position to review the material in the FOIPA Section, contact the Field Coordination Team to determine the appropriate procedure for the employee to review the file.

(8) Have the employee sign the lower portion of the FD-488 acknowledging the employee was given appeal rights and the right to obtain copies of reviewed material.

(9) Have copies made of any documents requested. A notation may be added to the addendum identifying documents requested by the employee.

Requests by FOIPA Section employees for access to their own personnel files will be assigned for processing by the Section's Front Office.

In addition to the OPF, personnel/performance folders are maintained by the rating official on FBI employees. At the time the employee is provided with his or her performance rating, a request may be made by the employee for access to physically review this folder. Should the employee request copies of any material maintained in this folder, he or she should be advised that a FOIPA request must be submitted in order to obtain copies of the material.

There may be particular circumstances which preclude the release of certain performance related information or documentation to the employee. These circumstances may include information or documentation which is relevant to a pending complaint, charge or internal investigation.

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**Personnel Files**

**B) FORMER EMPLOYEES**

Former employees are generally treated as members of the public. They may not review their files in the FOIPA Section space or have access to classified information. When their files contain information which may require classification, the entire file should be sent to DCU for review.

FOIPA personnel should remain alert for information located in personnel records which may require classification. This includes, but is not limited to, such items as: references to the SSG (Special Support Group); language training for certain vice training classes; various Bureau codes and systems data; some security clearance forms; and information concerning the duties or responsibilities of Radio Maintenance Technicians.

**C) MEDICAL RECORDS**

Employee medical records may be located in the following places: 1) the employee's personnel file; 2) the employee's medical folder, which is part of the personnel file but is maintained separately from it; and 3) the employee's clinical file, which is located in the Health Services Unit.

Medical folders were first established for agents in 1986 and for support personnel in 1988. Prior to the establishment of those folders, all medical records were filed in the employee's personnel file. Since the records in a personnel file were not removed and placed in a newly opened medical folder, an employee's medical record can be located in all three places mentioned above. Existence of a medical folder will be indicated by the stamp "Medical Records Filed Separately" on the personnel file. Medical folders are requested by calling the Personnel Records Unit (Ext. 4857).

Clinical files, which were first established on 1/13/86, contain the original EOD physical examination report of a current employee hired after that date and various other records. After employment ends, the documents in the clinical file are placed in the medical folder. Clinical files should be requested by calling the Supervisory Occupational Health Nurse (SOHN). If records are obtained from the clinical file for processing, an FOIPA Section employee must annotate the FD-488 Privacy Act Request to show which records were retrieved and included in the processed package.

If a release of medical records pursuant to a Privacy Act request might cause harm to the requester or another person, then those records should first be discussed with the SOHN. This can occur, for instance, when records are found concerning a psychiatric/emotional condition, or any other sensitive medical problem. If the decision is made that potential harm could occur if released directly to the requester, then the requester should be advised the material will be released pursuant to Title 5, U.S.C. §552a (f) (3). That is, the requester must provide the FOIPA

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**Personnel Files**

Section with the name and address of his or her personal physician and the records will be forwarded to the physician for release to the requester. The release of this type of information is done through the physician so the medical information can be clearly discussed and explained to the requester.

**D) SENDING PROCESSED MATERIAL TO FILE**

When a Privacy Act request involves processing of material from a 62 {Administrative Inquiry (AI)}, 67, 263 or 280 file classification, the pages containing deletions should be forwarded to the Personnel Records Section for filing into the respective 62 (AI), 67, 263 or 280 file along with the original FD-488 and/or OPCA-16 form (Disclosure letter). Please note those documents from the 67 Sub M and/or the Sub S which contain redactions are to be filed in the 67 Sub M and/or Sub S, along with a copy of the FD-488 or the OPCA-16 form, and not in the main 67 file. If processing also involves additional file classifications, then a 190 file should be opened and the processed documents from the other file classifications should be filed in the 190 file along with a copy of the FD-488 and/or OPCA-16 form. The 190 file number should be recorded in the "Miscellaneous" block on the computer sheet.

**Personnel Type Records Maintained at the FBI Academy,  
Quantico, Virginia**

Presently, there are two administrative units at the FBI Academy which maintain separate folders containing records identifiable with Special Agent (SA) personnel. The New Agents Unit maintains folders containing information compiled during New Agent's training. The Personnel Assessment Unit maintains similar folders containing information on those SA Personnel who attend the Management Aptitude Program (MAP) training sessions at the Academy.

In order to bring these records within the FBI Central Records System, a memorandum is inserted in each employee's personnel file at Headquarters at the time they go through either the New Agents or the MAP training program. This procedure was implemented in approximately November 1981.

As a result of discussion with the MAP Assessment Unit, FBI Academy, it was determined that much of the material maintained in the MAP folder is exempt from access pursuant to Exemption (k)(6) of the Privacy Act (PA) and (b)(2) of the Freedom of Information Act (FOIA), as disclosure would compromise the evaluation process.

In order to facilitate the processing of MAP materials, and to eliminate the need for the unnecessary transfer of documents from the FBI Academy to the FOIPA Section, all requests for

## **FOIPA Numbered Memo 69**

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### **Personnel Files**

MAP documents will be reviewed personally by the Unit Chief of the Personnel Assessment Unit. The Unit Chief will remove all MAP documents previously determined to be exempt from disclosure pursuant to Exemptions (k)(6) and (b)(2). Any remaining documents will be forwarded by routing slip to the FOIPA Section for processing, setting forth the number of pages withheld pursuant to Exemption (k)(6)/(b)(2).

In the event the request for MAP documents reaches the litigation stage, the Unit Chief of the Personnel Assessment Unit will provide justification for withholding exempt material.

Documents forwarded to the FOIPA Section for processing will include, but are not limited to, the cover page of the MAP report, biographical statements filled out by the MAP candidate, the assessor rating sheets, and the post MAP documents.

The MAP report, which the MAP candidate reviews and initials upon completion of the assessment or shortly thereafter, is exempt pursuant to Exemptions (k)(6)/(b)(2). If the FOIPA requester desires a second review of this MAP report, they should be advised to contact the Unit Chief of the Personnel Assessment Unit at Quantico.

### **CIA Name Checks in Suitability/Applicant Type Files**

Forms used for CIA name checks in suitability applicant files do not have to be referred to CIA if the form indicates "No Record", "No information," or "No Trace." For further information concerning the handling of these forms if any other type of response was noted, see the FOIPA Numbered Memo 8 pertaining to CIA.

### **Credit Bureau Reports Contained in Personnel Files**

PLSs will often encounter credit bureau reports in personnel files. These reports are often denoted as "confidential"; however, this designation does not mean the report is classified and per discussion with personnel of Credit Bureau Reports, Incorporated, it does not denote the manner in which the reports were furnished to the FBI. Therefore, it is the policy of the FBI's FOIPA Section to release these credit bureau reports to first party requesters as well as third party requesters with proper notarized authorization to receive such information.



### Access to Career Board Minutes

b6 In July 1989, a 67 control file was established to maintain all information pertaining to Career Board Minutes. This file contains agenda which outlines all of the positions considered on a listing, and each agenda item is addressed separately, setting forth the position considered, the person selected and why, and all persons whose qualifications were considered. Due to the sensitivity and personal nature of the material, access to the Career Board Minutes is limited to PLS [REDACTED], Unit 1.

b6 When a request is made for Career Board Minutes pursuant to a FOIPA request, it will be assigned to PLS [REDACTED] for processing of any or all Career Board tape recordings, accompanying minutes and/or agenda. Documents that are physically contained in a personnel file which pertain to Career Board activities or information will, in most instances, be processed by the PLS to whom the case is assigned. However, the PLS should contact PLS [REDACTED] in order to verify that he does not need to process the documents.

### Informal Access Review of Personnel Files

(The request for an Informal Access review is not processed through or by the FOIPA Section or its employees. Employees have been designated from each field office and FBIHQ Division to handle these requests. This is a request only to review the personnel file and no copies of any documents are made available to the employee through the Informal Access procedures.)

In the Settlement Agreement reached in Emanuel Johnson, et. al. V. Stuart M. Gerson, Acting Attorney General, the FBI agreed to establish procedures whereby all FBI employees could access their personnel files without submitting a Privacy Act request.

With the exception of Legats, all offices including FBIHQ Divisions and offices, will be responsible for handling requests for informal access to personnel files from employees assigned to their offices. (Legats will forward requests from employees assigned to their offices to FBIHQ for handling.) Field offices will also be responsible for handling requests from employees assigned to Resident Agencies within that office's territory.

FBIHQ employees may make an informal access request by executing a request form and submitting their request to the Assistant Director (AD) or office head of their assigned division. Field office employees may execute a request form and submit their request to the Special Agent in Charge (SAC) or the Assistant Director in Charge (ADIC). The request will then be forwarded to the designated employee handling these requests for processing.

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**Personnel Files**

Fifteen and 45 day periods have been established as a time frame in which the employee's file will be available for review. This 15 and 45 day period will begin upon receipt of the employee's request by the SAC, ADIC, AD or office head.

Upon review of the file, an employee will be afforded an opportunity to submit to the respective SAC, ADIC, AD or office head a response or rebuttal to any information in their personnel file for inclusion in that file.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Photograph Albums, FBI  
**Date:** March 31, 1998

**Processing under the Freedom of Information Act**

A partial list of FBI Photograph Albums is published in the FBI's Privacy Act Records Systems Notices (52 Fed. Reg. 47, 237, October 5, 1993), which is included in the FOIPA Manual. Some of the Photo Albums identified in this systems notices are:

Bank Robbery Album  
Known Check Passers Album  
Organized Crime Photo Album  
Prostitute Photo Album  
Thieves, Couriers and Fences Photo Index  
Top Burglar Album  
Truck Hijack Photo Album  
Truck Thief Suspect Photo Album  
Traveling Criminal Photo Album

Not all of the FBI's Photograph Albums are published since some of them are classified. Since it would be impractical to research and treat each of the FBI's Photograph Albums in detail, this memo will only give some general guidelines concerning processing of information from a Photograph Album.

If the Photograph Album consists of subjects suspected of criminal activity, the album is probably published in the Federal Register and will generally not require classification review. DCU should be consulted, however, if there is a potential foreign relations impact in the event information is released. For example, if the document being processed indicates the FBI received an LCN member's photo from Italian authorities, the document should be referred to DCU for classification review. *Release of such information could have a negative impact upon the United States' National Security as well as the future relationship between the FBI and the Italian authorities.* Documents concerning domestic and international terrorism should always be forwarded to DCU for classification review.

In addition to Exemption (b)(1), Exemptions (b)(7)(A), (b)(7)(C), (b)(7)(D) and



**FOIPA Numbered Memo 70**

Page 2


**Photograph Albums, FBI**

(b)(7)(E), and Exclusions (c)(1) and (c)(3), should also be considered. The use of Exemption (b)(7)(E) should be considered to protect the criteria used to determine when a subject is of sufficient interest to be shown in a Photograph Album.

**Processing under the Privacy Act**

Information from Photograph Albums will generally be protected from disclosure under Exemptions (j)(2) or (k)(1).

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Polygraph Examinations  
**Date:** March 31, 1998

 which make the use of the polygraph an effective investigative technique. Countermeasures could be employed by an individual to defeat the procedure if the exact sequence of questions was known, along with the purpose for some of the questions and the importance placed on them by the FBI. Therefore, Exemptions (b)(2) and/or (b)(7)(E) are appropriate to withhold the following types of information concerning polygraph examinations in FBI criminal/security files:

b2  
b7E

**1) Numerical ratings on Polygraph Charts:**

Polygraph charts may be released to first party requesters with the exception of any numerical ratings. The numerical ratings usually appear at the bottom portion of the chart along with a minus (-) or plus (+) symbol. These ratings should be exempt pursuant to (b)(7)(E). In recent cases, computerized polygraph charts are being generated and the information as bracketed on **Attachment 1** should be protected pursuant to Exemption (b)(7)(E).

**2) Polygraph Examination Worksheet (FD-497)**

Exemptions (b)(2) and (b)(7)(E) should be utilized to protect the information in the boxes reporting the "**Type Test, Series, Charts, and Instrument Serial No.**" Also, a **complete list of questions asked during the polygraph examination** will normally be found on the reverse side of the FD-497 or sometimes on a separate sheet of paper as original notes. If a complete list of the questions exists, redact the list entirely pursuant to Exemptions (b)(2)/(b)(7)(E). (See **Attachment 2**)

**3) Polygraph Examination Report (FD-498)**

The Polygraph Examination Report is releasable in first party requests, including references to the relevant questions and the examinee's answers in the "conclusion" portion of the report, unless it contains additional material exempt under some other provision of the FOIA or PA. For example, some polygraph examinations will include FCI material and will have been classified at the time of origination. In many cases, these polygraphs remain classified upon completion of Document Classification Unit's review and are withheld from disclosure in their entirety pursuant to Exemption (b)(1). (See **Attachment 3**)

**FOIPA Numbered Memo 71**

Page 2

**Polygraph Examinations**

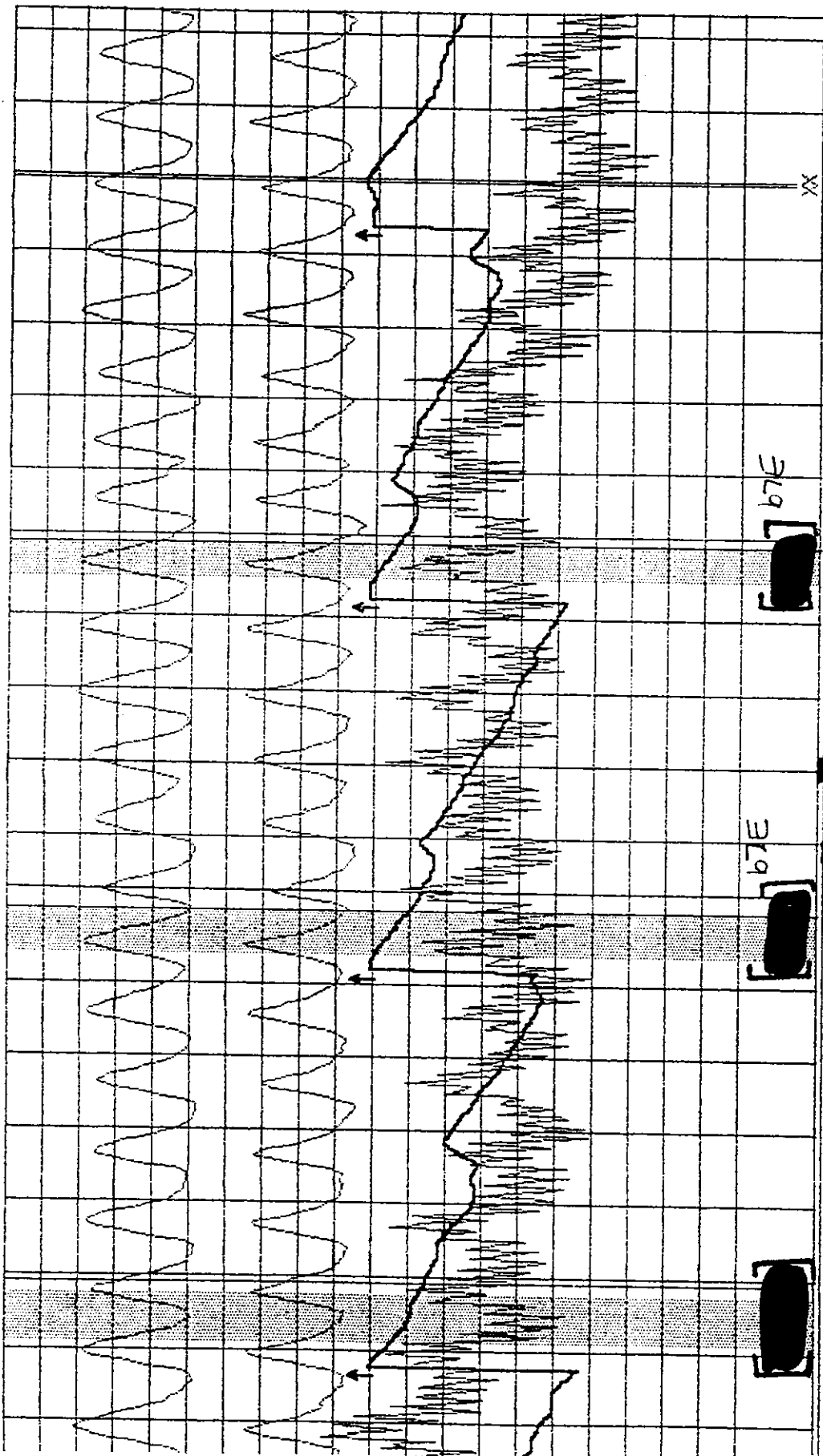
**4) Polygraph Zone Comparison Numerical Analysis Data Sheet (FD-524)  
Polygraph Review Modified General Question Test Numerical Evaluation (FD-525)**

The numerical ratings on these two forms (See Attachments 4 and 5) may be released entirely to first party requesters, however, the examiner's name should be protected pursuant to exemption (b)(7)(C).

When encountering polygraph examinations conducted on third party individuals in FBI investigatory files, who are assumed or known to be living, they should be withheld entirely applying the above exemptions as indicated in addition to exemption (b)(7)(C).

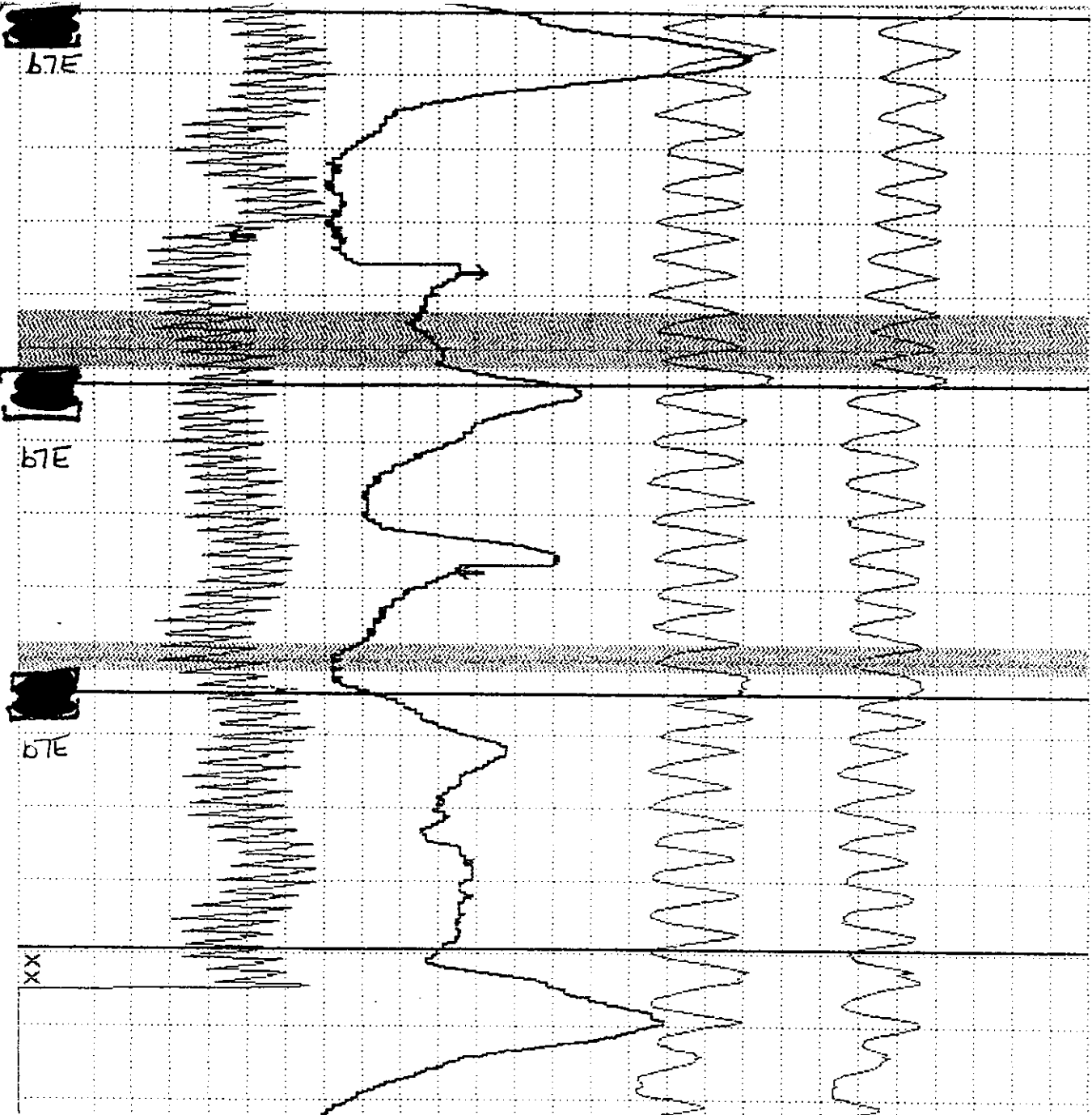
**NOTE: The same Polygraph information should be protected as outlined above when processing an applicant/background investigation or personnel type files.** The appropriate Privacy Act and FOIA exemptions should be asserted for this information.

Any questions concerning polygraph material should be directed to the Polygraph Unit, Laboratory Division, after consultation with the Team Captain and/or the Unit Chief.



	Gains: ID	Start	End (Recorded)	Start	End (Printed)
[Redacted]	[Redacted]	2.6	2.6	2.6	2.6
[Redacted]	b7E	1.6	1.6	1.6	1.6
[Redacted]	[Redacted]	3.4	4.5	3.4	4.5
[Redacted]	[Redacted]	3.5	3.5	3.5	3.5

page 2 of 3 PF00017 Exam 1 Chart 2 HUGO2 [Redacted] b7E  
 Subject: [Redacted]  
 Examiner: [Redacted]  
 Date: Thu, May 22, 1997 View Size: Normal  
 Time Start: 1:29:26 PM End: 1:34:25 PM Duration: 4 min 59 sec  
 Cuff Pressure Start: 65 End: 64



PF970014 Exam 1 Chart 5

Subject:

Examiner:

Date: Mon, May 5, 1997

Time: Start: 10:48:29 AM End: 10:53:18 AM

Duration: 4 min 49 sec

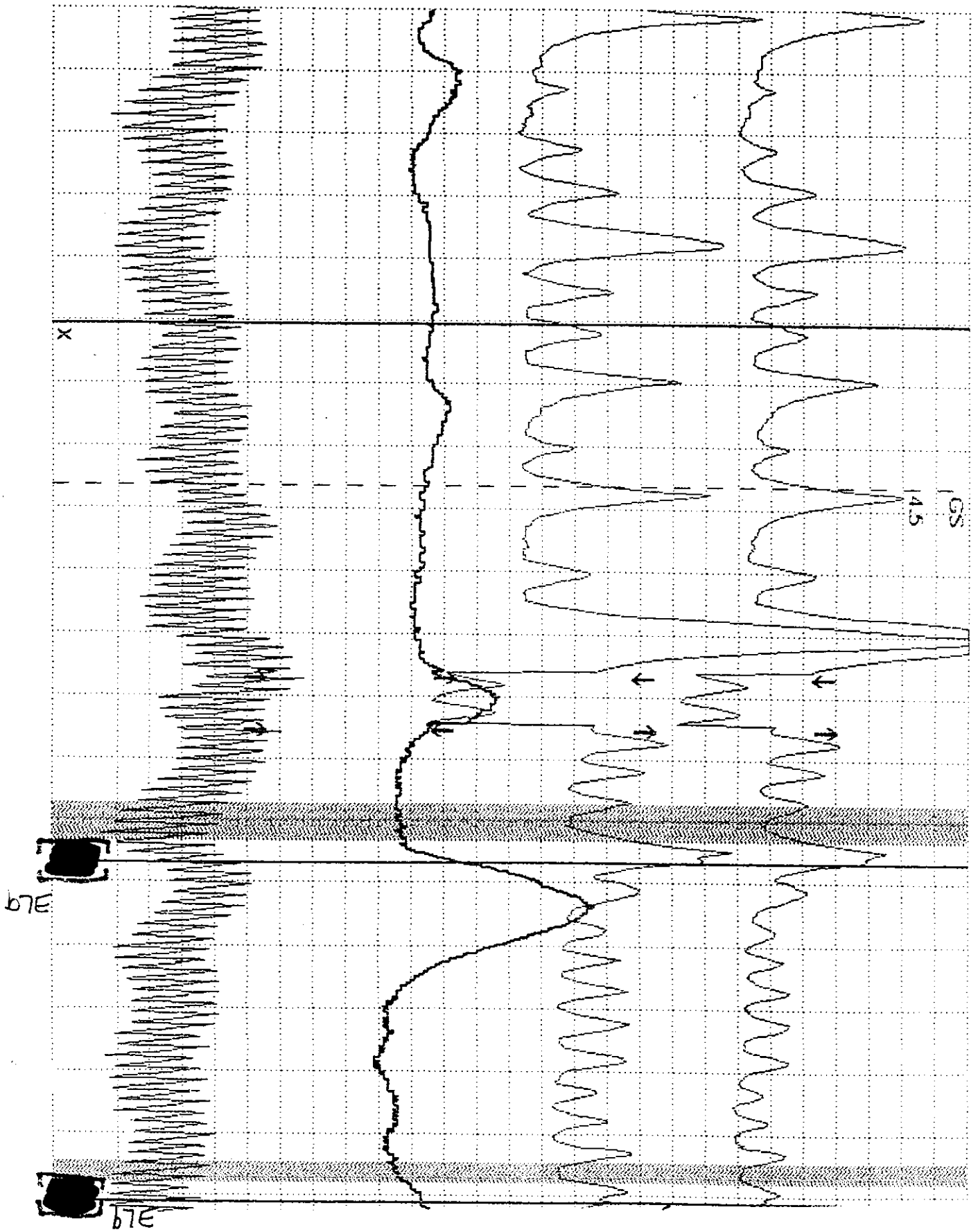
Cuff Pressure Start: 58 End: 60

[Redacted]  
b7E

Gains:	ID	Start	End
	[Redacted]	6.0	6.0
b7E	[Redacted]	4.0	4.0
	[Redacted]	5.0	5.0
	[Redacted]	2.5	2.5

I-57 # 4 RJP

MEMO 71 - ATTACHMENT 1



PF970014 Exam 1 Chart 1

Subject:

Examiner:

Date: Mon, May 5, 1997

Time: Start: 10:08:41 AM End: 10:12:21 AM

Duration: 3 min 40 sec

Cuff Pressure Start: 60 End: 58

Gains: ID Start End

5.0 5.0

3.5 3.5

3.5 4.5

2.5 2.5

# Polygraph Examination Worksheet

Date of Report		Date of Examination		Bureau File Number		Field File Number	
Location of Examination				Examiner Name			
Examinee Name (Last, First, Middle)						SSN	
Date of Birth		Age	Place of Birth				
HT	WT	Sex	Marital Status		Current Address		
Previous Polygraph Examination			Language During Exam		Requested By Examinee <input type="checkbox"/> Yes <input type="checkbox"/> No		
Education (Total Years _____)							

Employment History/Military

Health/Medication

Arrests/Convictions

Check One Only	FBI EMP/APP	Type of Investigation	Total Examiner Time (Include Travel)
Subject	Special Agent	Criminal	_____ Hours
Victim	Support	FCI	
Witness	Translator	Admin. Inquiry	Estimated Property Value
Suspect	Contract	PSP	
Asset	Leak Case <input type="checkbox"/> Yes <input type="checkbox"/> No	Applicant	
Informant		WITSEC	
Applicant		Other Federal	
FBI Employee			

Date(s)	Time In	Time Out	Type Test	ZOC	MGQT	R/I	POT	STIM	Total
			No. Series						
			No. Charts						
			Instrument Serial No.						

**Examination Results**

DI	INC	Pretest Admission	Confession
NDI	NO	Post Test Admission	Confession

Comments (Name of Witness or Interpreter)



#

Questions

Ans.

MEMO 71 - ATTACHMENT 2 (BACK)

## POLYGRAPH REPORT

DATE OF REPORT	DATE OF EXAMINATION	BUREAU FILE NUMBER	FIELD FILE NUMBER
FIELD OFFICE OR AGENCY REQUESTING EXAMINATION			
AUTHORIZING OFFICIAL			DATE AUTHORIZED
EXAMINEE NAME (LAST, FIRST, MIDDLE)			

CASE TITLE

REFERENCES

CASE SYNOPSIS/EXAMINER CONCLUSION

MEMO 71 - ATTACHMENT 3

EXAMINER NAME:

### NUMERICAL ANALYSIS SHEET

#1					
PNEUMO					
GRS					
CARDIO					
SUB TOTAL					

EXAMINEE

DATE OF EXAM

#2					
PNEUMO					
GSR					
CARDIO					
SUB TOTAL					

EXAMINER

#3					
PNEUMO					
GSR					
CARDIO					
SUB TOTAL					

REVIEWER

DATE OF REVIEW

PNEUMO					
GSR					
CARDIO					
SUB TOTAL					

COMMENTS

TOTAL					
-------	--	--	--	--	--

MEMO 71 - ATTACHMENT 4

POLYGRAPH REVIEW MODIFIED GENERAL QUESTION TEST NUMERICAL EVALUATION				DATE OF EXAMINATION 12-13-83
EXAMINEE (Last, First and Middle Initial)		EXAMINER NAME (Last, First and Middle Initial)		
CHART NO. 1	Q 23	Q 25	Q 28	Q 29
PNEUMOGRAPH	0	0	0	+1
GALVANIC SKIN RESPONSE	+1	-1	+1	+1
CARDIOGRAPH	-1	0	0	0
SUBTOTAL	0	-1	+1	+2
CHART NO. 2	Q 23	Q 25	Q 28	Q 29
PNEUMOGRAPH	-1	-1	0	+1
GALVANIC SKIN RESPONSE	-1	-1	-1	+1
CARDIOGRAPH	+1	+1	0	0
SUBTOTAL	-1	-1	-1	+2
CHART NO. 3	Q 23	Q 25	Q 28	Q 29
PNEUMOGRAPH	0	+1	-1	0
GALVANIC SKIN RESPONSE	+1	+1	-1	0
CARDIOGRAPH	0	+1	0	+1
SUBTOTAL	+1	+3	-2	+1
SPOT TOTALS	0	+1	-2	+5
REVIEWER (Name)				DATE OF REVIEW

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** **Previously Processed Material, Assignments and Handling of**  
**Date:** March 31, 1998

**Assignment of Requests for Previously Processed Material**

When a request is received for records which have been previously processed, excluding those maintained in the FOIPA Reading Room, the request will be assigned to the PLS who originally processed the documents. If the PLS is no longer assigned to a Disclosure Unit, the request will be assigned to any PLS and there should be no unnecessary delay in handling the request.

**Note:** Requests for preprocessed files maintained in the FOIPA Reading Room, will continue to be handled by IPU employees.

**Referrals Contained in Preprocessed Releases**

In order to streamline the handling of preprocessed releases, it will no longer be necessary to coordinate referrals to others government agencies that were made in the initial release. The original processed material should be copied and sent out "as is." If direct response and/or consultation referrals have been noted in the original release, please advise the requester that the referrals were not handled in response to his or her request. Language similar to the following should be used:

"The documents responsive to your request were previously processed for another requester. In order to provide the information you requested as soon as possible, we have released the FBI information as it was originally processed. We have not contacted other government agencies concerning their information in FBI files."

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: Psychological Services for FBI Employees  
Date: March 31, 1998

Psychological Services Provided to the FBI

Doctors [redacted] and [redacted] b6

Doctors [redacted] and [redacted], who are no longer under contract with the FBI, previously provided psychological services to Bureau employees as part of the Bureau's psychological services program. As of March 1998, Dr. [redacted] on behalf of himself and his wife, Dr. [redacted] (Social Worker), requested they be given the opportunity to retain confidentiality on a case-by-case basis. Therefore, Dr. [redacted] requested that he or his wife continue to be notified if information provided by them is in a file being processed pursuant to the FOIPA. Dr. [redacted] may be contacted at the [redacted] [redacted] at telephone number [redacted] or [redacted]. Since the current work environment of Dr. [redacted] is not conducive to receiving telephone calls, [redacted] advised the message could be left with him or a message could be left at their home telephone number [redacted] [redacted], and [redacted] would return the call. This notification should be done at the Team Captain level or higher. b6

Thus, if information provided by the Doctors is located in any document being processed by FOIPA Section employees, the doctors should be notified. Unless advised to the contrary by them, the information should be protected by FOIPA exemptions (k)(5)/(b)(7)(D) in order to protect the confidentiality of both doctors. If the information cannot be protected for some reason such as prior public disclosures, the Doctors should be contacted and notified of that fact.

Metropolitan Psychiatric Group

[redacted] Metropolitan Psychiatric Group (MPG) telephone 202-452-9080, is currently providing psychological services to FBI employees. Information provided by Dr. [redacted] and/or any member of the MPG should be afforded protection for confidentiality purposes pursuant to FOIPA exemptions (k)(5)/(b)(7)(D). Also, should there be situations where a document being processed contains information provided by the MPG about a third party employee, not the requesting employee, the third party information should be protected in its b6

**FOIPA Numbered Memo 73**

Page 2

**Psychological Services to FBI Employees**

entirety for privacy rights of the third party and the confidentiality of MPG pursuant to FOIPA exemptions (k)(5), (b)(7)(D), (b)(6), etc.

Any questions concerning the FBI's psychological services program or specific questions concerning particular cases should be directed to the Unit Chief of the Employment Assistance Program at extension 5244.





**FOIPA Numbered Memo 74**

Page 2

**Reading Room, FOIPA**

Attached hereto are two examples of the EC.

If additional information is being released on Reading Room subjects as a result of reprocessing, appeals or litigations, the Reading Room package should be updated through coordination with Reading Room personnel.

**FEDERAL BUREAU OF INVESTIGATION**

**Precedence:** ROUTINE

**Date:** 11/23/1997

**To:** IPU/Public Reading Room Subunit

**From:** [REDACTED], Acting Unit Chief  
Disclosure Unit One

**Contact:** [REDACTED] Ext. [REDACTED]

**Approved By:** [REDACTED]

**Drafted By:** [REDACTED]:crw

**Case ID #:** 190-4

**Title:** PLACING FOIA PREPROCESSED MATERIAL  
INTO THE READING ROOM

**Synopsis:** Preprocessed material pertaining to Jackie Robinson is available for placement in the FOIPA Reading Room.

**Enclosures:** Black-out package consisting of 131 pages and disclosure letter.

**Details:** The late Jackie Robinson was the first African-American to play major league baseball in the United States. His career spanned ten seasons which began in 1947 until his retirement from the game in 1956. He was elected to the Baseball Hall of Fame in his first year of eligibility, 1962. Mr. Robinson later became an executive in numerous businesses and a member of the New York State Athletic Commission. While serving as a board member of the National Association for the Advancement of Colored People and being associated with many such groups, he was an outspoken civil rights activist who publicly defended the Black Panthers organization. He testified before the House Committee on Un-American Activities in 1949. Mr Robinson died in 1972.

The preprocessed material consists of FBIHQ files 100-428850, 9-24780, 9-20570 and three cross-references. A Department of State document is contained in this package as declassified and excised by that agency. The original processed copies are located in HQ file 190-43620 and 190-62179.

**CC:** 1 - [REDACTED] Room 6941  
1 - [REDACTED] Room 6941  
b6 1 - Disclosure Unit One (Attn: [REDACTED]), Room 6927  
ATB:crw (5)



(12/31/1995)

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/23/1997

To: IPU/Public Reading Room Subunit

From: [REDACTED], Acting Unit Chief  
Disclosure Unit One  
Contact: [REDACTED] Ext. [REDACTED]

b6

Approved By: [REDACTED]

Drafted By: [REDACTED].jsb

Case ID #: 190-4

Title: PLACING FOIA PREPROCESSED MATERIAL  
INTO THE READING ROOM

Synopsis: Preprocessed material pertaining to Peter Lorre is available for placement in the FOIPA Reading Room.

Enclosures: Black-out package consisting of 180 pages and disclosure letter.

Details: Peter Lorre was a major motion picture actor during the 1940's and 1950's. He associated with many people who were involved in left-wing activities. Lorre signed petitions, appeared at gatherings and sent his written support for leftist causes. He was the subject of a FBI investigation because of his fringe involvement. His name appeared in a 1951 Report of the Senate Fact-finding Committee on Un-American Activities in California. Peter Lorre died in 1964.

The preprocessed material consists of FBIHQ files 100-351116 (one section) and approximately 100 cross-references. Completed consultation referrals are incorporated into the package. The original processed copies are located in HQ 190-25650 and 190-36269.

CC: 1 - [REDACTED] Room 6941  
b6 1 - [REDACTED] Room 6941  
1 - Disclosure Unit One (Attn: [REDACTED], Room 6927  
ATB:jsb (5)

b6

◆◆

MEMO 74 - ATTACHMENT 1 (SAMPLE 2)



### **Consultation Referrals Returned from Other Government Agencies**

When FBI consultation referrals are returned to the FBI following review by the other agency, they sometimes contain changes in classification. Regardless of whether the classification changes, all consultation referrals returned from other government agencies containing classified information must be returned to DCU for annotation of classification markings desired by the other government agency. The returned referral documents are being treated as walk-ups by the DCU, thus eliminating needless administrative requirements and delays.

### **Credit for Direct Response Referrals**

Effective 7/1/95, PLSs will receive credit for reviewing documents originated by other government agencies. Therefore, the pages referred to other agencies for direct response are to be counted as reviewed pages by the PLS.

When referring documents originated by the other agency, refer only one copy of the document with any FBI information which needs protected blacked out except for the following:

1. CIA - Send two copies of the document (1 black out copy and 1 clean copy)
2. DOJ/Civil Rights Division - Send two copies of the document (1 black out copy and 1 clean copy)
3. DOJ/Criminal Division - Highlight or bracket information to be protected and cite exemption (Do not black out)
4. NSA - Coordinate with PLS assigned to the Unit which handles referrals to NSA



**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Special Agent and Support Applicant Interview Forms/Testing Material  
**Date:** March 31, 1998

**Special Agent Interview Forms**

Effective 7/14/93, there is no longer a need to protect any information in the captioned forms listed below, since they are not being used in the current Special Agent selection system.

FD-190	Special Agent Interview Form
FD-511	Special Agent Dimension Evaluation Work Sheet
FD-510	Special Agent Applicant Interview Board Background Interview Form

Since the implementation of the new Special Agent selection system in August of 1994, no testing material of any kind is being maintained in the applicant's personnel record (67 classification). This material is securely stored in Personnel Resources Unit (PRU) for a time period of one year, at which time, it is transferred to an off-site location for an additional year. At the end of this two-year period, all testing material on a Special Agent Applicant is destroyed. When processing a personnel file, if it appears that any testing material from the Special Agent selection process is included in the background portion of the file, contact the Unit Chief of the PRU immediately on extension 4991. **DO NOT PROCESS OR RELEASE** any of this material.

"Checklists" of the material contained in testing packages are occasionally found in the Special Agent applicant file. One such "checklist" is the **Checklist for Health Fraud Written Simulation** form. If this check list is found in the applicant file, the PLS should cite the appropriate exemption for testing material. Other "checklists" of testing packages found in the applicant file should be reviewed for disclosure on a case-by-case basis.

The FBI started audio taping the interview process of Special Agent applicants during 1995. The applicant is advised of this before the start of the interview. If the cassette tape is located in the personnel file during processing, contact the Unit Chief of PRU on extension 4991. **DO NOT PROCESS OR RELEASE** this tape.

### Support Applicant Interview Forms

If the LT/PLS finds the **Support Applicant Interview Form ( FD-190a)** in the background portion of a personnel file with a revision date **prior to 9/4/96**, the form is to be released in its entirety with the exception of any FBI employees names which should be protected pursuant to the appropriate FOIPA exemptions. Currently, the **9/4/96 revised version** contains specific interview questions, responses and ratings which, if released, would give an unfair advantage to future support employee applicants. Therefore, this information on the current version of the FD-190a should be exempted as testing material. If the current version of this form is found in the personnel file during processing pursuant to an FOIPA request, the form should be removed and sent to PRU at Room PA-750. A copy of the FD-190a dated prior to 9/4/96 is attached.

In addition, any **Clerical Selection Battery (CSB)** interview documents (e.g., **FD-799 and FD-800**) should not be contained in any personnel files since field offices are instructed to send these to the PRU for maintenance and destruction (after two years). However, PRU is aware that the CJIS Division in West Virginia made copies of all their interviews and included them in packages submitted to the Applicant Unit for background investigations. These interviews are removed from the files as detected, but there are of some CSB documents that remain in the personnel files. In the event these documents are found in personnel files when processing pursuant to an FOIPA request, they should be removed and sent to PRU at Room PA-750.

During 1997, the FBI started audio taping the interview process of support applicants. The applicant is advised of this fact before the interview is started. If the cassette tape is located in the personnel file at the time of processing, the tape should be removed from the file and sent to PRU at Room PA-750. **DO NOT PROCESS OR RELEASE** this tape.

When the FBI receives a Privacy Act request for material related to the Special Agent or clerical applicant testing and interview process, IPU personnel will place a note (copy attached) in the request folder confirming they advised PRU of the existence of the request. When processing such a request, the PLS should contact either [REDACTED] Unit 2, extension 4-[REDACTED] or [REDACTED] Unit 3, extension 4-[REDACTED] who have been designated as liaisons to review this restricted material. These individuals will verify that the material is responsive, provide a page count and advise as to the releasability of the material.

b6





**FOIPA Numbered Memo 78**

Page 2

**Special Agent and Support Employee Names and Initials**

information along with Exemptions (b)(6) and/or (b)(7)(C) being cited. The following language should also be included on the disclosure letter:

"The documents responsive to your request contain personal information about other individuals, without whose written consent release to you is precluded by the Privacy Act, Title 5, United States Code, § 552a(b). This information is exempt under the Freedom of Information Act, Title 5, United States Code, § 552 (b)(6) and/or (b)(7)(C). This information was not used by the FBI to make any determination about you.\*"

\*The last sentence may not be appropriate for every release; use it at your discretion.

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: **Special File Room**  
Date: March 31, 1998

**Procedures for FOIPA and DCU Access to Material  
Maintained in the Special File Room (SFR)**

Material maintained in the SFR is considered extremely sensitive for a number of reasons; consequently, access to this material must be limited and strict controls maintained.

Recognizing the need to process such material in accord with the FOIPA and the necessary classification reviews in connection therewith, the following procedures for access to this material must be followed:

(1) When the LT/PLS calls a file that is maintained in the SFR, he/she will be advised that the file is **permanently charged out** or a **PCO**. When this happens, the LT/PLS should wait for the SFR to advise him/her to pick up the file(s) in Room [REDACTED] b2

(2) The handling of the material while charged out from the SFR must be restricted only to those employees having a "need to know." If the file(s) is kept out of the SFR overnight, it must be secured in a safe-like cabinet.

(3) If the material needs to be processed through the DCU, the LT/PLS should fill out the OPCA-18 form listing the file(s) needing review and indicate after the file number "**file is in the SFR, June Mail folder or Top Secret folder.**" The LT/PLS will return the file/folder to the SFR. **The file/folder maintained in the SFR can not be transferred from person-to-person or office-to-office.** The DCU employee handling the classification review will obtain the file/folder from the SFR for their review. Upon completion of the classification review, DCU will forward the OPCA-18 form with their addendum to the LT/PLS and return the file/folder to the SFR.

(4) When it is necessary to duplicate SFR material for FOIPA processing, the material must be returned to the SFR with OPCA-19 form (formerly 4-690), duplication form, attached indicating exactly what is to be duplicated. The SFR will call the LT/PLS when the duplication is completed.

(5) If copies are made for processing, the copies must also be secured overnight in a safe-like cabinet.

(6) When the PLS closes a case which includes a copy of material from the SFR, the PLS should hand carry the disclosure letter and all of the processed documents to the SFR for filing. If the PLS referred a copy of a document(s) maintained in the SFR to another Federal Government agency and is attaching a copy of the referred document(s) to the yellow of the referral form, the referral with enclosure must also be sent to the SFR for filing. This also applies to any referral response enclosing a copy of a document(s) maintained in the SFR. All other FOIPA mail should be sent to the 190 Processing Subunit in IPU.

(7) All material from the SFR must be hand carried to and from the SFR.

### Review of Special Compartmentalized Information (SCI) Material

Special security clearances are required to review or handle certain "Top Secret" files or documents which contain SCI material. If the LT/PLS is notified by the SFR that he/she does not have the appropriate clearance to review the classified material requested, one of the following PLSs should be contacted to conduct the review. It is recommended that the individual contacted be from the same unit as the PLS handling the case.

#### Disclosure Units:

[REDACTED] Unit 1  
[REDACTED] Unit 4

[REDACTED] - Unit 3

#### Litigation Unit:

[REDACTED]

#### Help Desk:

[REDACTED]

b6

#### DCU:

All Team Captains in DCU are afforded SCI clearances. However, should there be any questions concerning classification matters on a case prior to DCU review, the LT or PLS should initially contact the DCU Administrative Team Captain.

#### RMU:

Currently, there are no RMU employees with an SCI clearance. If an RMU employee has been advised by the SFR that they do not have the proper clearance to review the file material, they should contact one of the Disclosure PLSs listed above.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Subpoena Duces Tecum  
**Date:** March 31, 1998

**Attorney General Notification to Agent Personnel in Response to  
Issuance of Subpoena Duces Tecum**

By memorandum dated 6/21/82, the Office of Information and Privacy (OIP), Department of Justice advised that it was no longer necessary for the FBI to refer to OIP for processing copies of routine notifications sent from the Attorney General to SACs and/or Agents concerning their appearance in a local court in response to a Subpoena Duces Tecum. Generally these notifications are in the form of a teletype from the AG to a named SAC and specified Agents within the Field Office who have been requested to appear in a local court to testify about and/or produce information contained in Departmental files, including those of the FBI. The AG's teletype states that if the AUSA is unsuccessful in quashing the subpoena, the Agent(s) is authorized to appear pursuant to the subpoena, but directs that they respectfully refuse to testify or produce any documents in compliance with Departmental Order 381-67.

Referral of these notifications need not be made to OIP so long as they contain no other substantive information and the only material being deleted is the name of a Special Agent.

**Subpoena Duces Tecum Statements**

At times, FBI documents may contain information obtained from sources such as financial or commercial institutions which may not be generally available to the public. In these instances, the source (i.e., financial institution, etc.) may provide the information to the FBI, however, may use the disclaimer to the effect that "this information may not be released to the public in general without the issuance a subpoena duces tecum." When this statement or a statement similar to this appears in an FBI document, the information and the source should be protected pursuant Exemption (b)(7)(D) and be considered as an expressed grant of confidentiality.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Substantial Equivalents of Main Files  
**Date:** March 31, 1998

Pursuant to the searching procedures established by the Initial Processing Unit (IPU) in February 1997, "main file equivalents" will be listed on the search slips.

A "substantial equivalent of a main file" exists when the subject matter of a FOIPA request is included in, or indexed as, the subject of a serial or reference in one or more of the following classifications or files:

All - 0s	105-7
All - 62s	105-16424
All - 63s	105-70374
64-32001	105-93124
65-69260	105-99938
All - 66s	105-174254
All - 94s	105-190290
100-3-Sub 104	121-1
100-358086	140-1
100-434445	157-6-Subs
100-436291	157-9
100-446533	174-1
100-448006	174-2
100-449698	174-3
105-1	

These are serials or references which, by their nature, could logically establish a main file on their own. It should be noted that the nature of the information in the document, not the method of filing it, determines whether or not it is a "substantial equivalent."

When the search slip contains what appears to be a "cross-reference" in one of the above-listed classifications or files, it must be reviewed and determined if it is responsive to the subject of the FOIPA request. If the serial/reference meets the above criteria and is responsive to the request, it will be processed for disclosure as a main file.

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: Telephone Application  
Date: March 31, 1998

The Telephone Application (TA), formerly known as the Computerized Telephone Number File (CTNF), supports FBI investigative squads in collecting, analyzing and processing telephone data obtained during investigations.

b2  
b7E

The main value of using the TA is the ability

b2  
b7E

When processing a FOIPA request that contains information which refers to TA or the former CTNF, the mere mention of these systems should be protected pursuant to Exemption (b)(7)(E) since they are not systems of records and their use is not generally known to the public. In addition, all FBI information or documents that reflect or denote what information or the type of information that has been entered into these systems such as the FD-450 (**Attachment 1**) should be denied from public disclosure pursuant to the same exemption.

UNITED STATES GOVERNMENT

# Memorandum

COMPUTERIZED TELEPHONE NUMBER FILE (CTNF) - ENTRY AND SEARCH REQUEST

TO : Director, FBI  
Attn: Data Processing Section

DATE:

FROM : SAC

SUBJECT:

1. Subject's Name \_\_\_\_\_

Field Office \_\_\_\_\_ Field File # \_\_\_\_\_

Add to file Area Code \_\_\_\_\_ Telephone # \_\_\_\_\_  
 Modify Record (Indicate modifications under "Remarks" below, always list current CTNF telephone number.)  
 Delete from file Area Code \_\_\_\_\_ Telephone # \_\_\_\_\_

Subscriber's: \_\_\_\_\_ Telephone Located at: (if different from subscriber) \_\_\_\_\_

to \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Process in CTNF:

Telephone data enclosed, or  sent under separate cover

a.  Telephone Data Analysis -  billing statements  phone toll tickets  other (specify) \_\_\_\_\_

Telephone data for period (including month and year) \_\_\_\_\_

Billing number(s) including area code, city and state \_\_\_\_\_

b.  Telephone Number Check (If just one or more phone numbers to be searched against CTNF, include area code and and/or city and state included.)

Remarks:

MEMO 82 - ATTACHMENT 1

Enclosure

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**FOR FBI HEADQUARTERS' USE ONLY**

RETURN TO SAC, \_\_\_\_\_ Date \_\_\_\_\_

NOT LIST -  Attached  Forwarded under separate cover \_\_\_\_\_ file  
 "TO AND BILLING NUMBER" LISTINGS -  Attached  Forwarded under separate cover  
 TELEPHONE NUMBERS MARKED BY \*\*\* ON BILLING STATEMENT not processed because  ILLEGIBLE  INSUFFICIENT DATA

ACTION TAKEN -  Add  Delete  Record modified  Telephone data analysis  
 BILLING NUMBER -  Included  Not included in CTNF

Enclosure





### Proof of Death

The guidelines concerning the proof needed before processing and releasing records about a subject whom the requester asserts is dead are as follows:

1. The subject of a third party request should be presumed to be alive unless there is a record confirming death. The record of death can be a death certificate, obituary, or recognized reference source (e.g., Who Was Who in America).
2. A mere assertion by a requester that a subject is dead is not sufficient proof of death.
3. Death can be presumed if the requester asserts the subject is dead, and there is proof that the subject is at least 100 years old.
4. If our own records establish death, then that is satisfactory.

### Waivers of Privacy

Waivers of privacy require careful analysis, since there is significant potential for an inadvertent violation of the Privacy Act's disclosure prohibitions if a waiver is interpreted inaccurately or if a waiver is insufficient. A waiver does not authorize anything more than what is stated in the waiver itself. The waiver should be compared with the request letter to ensure that a limited waiver is not misquoted by the requester. If any aspect of the waiver is not clear, the request should be brought to the attention of supervisory personnel for additional review.

Waivers of personal privacy must be signed by the person waiving privacy, preferably in the presence of a notary, must specifically identify the person waiving privacy (including full name, date of birth and present address), and must be specifically directed to the FBI, permitting the FBI to release personal information (about the person executing the waiver) from its files. The waiver should be dated within a reasonable time period preceding the request, and the original copy of the waiver must be provided to the FBI.

### Third Party Information

Information in FBI files concerning third parties which has **not been provided** by the requester, and which is **not outweighed** by a public interest in disclosure, **should be denied pursuant to Exemption (b)(7)(C)**. An exception to this general standard will involve historical processing, wherein substantive information concerning third parties may be considered for released.

**FOIPA Numbered Memo 83**

Page 3

**Third Party Requests/Third Party Information**

Information in FBI files concerning third parties which has been provided by the first party requester will be processed to protect the identity of the third parties pursuant to Exemption (b)(7)(C). This may require the redaction of the third party's name, or it may require the redaction of significant portions of the substantive information, if an identifiable profile would otherwise be revealed. Although considerable flexibility and judgement will be required to determine how much information can be released without identifying the third party, the standard should be to protect all information which would identify the third party to a member of the public who does not have inside information about the case. The special knowledge of an individual requester should not be considered. This balances the right of a first party requester to know what information a governmental agency may have recorded from his own statements to that agency, while still protecting the privacy interests of persons who have been mentioned in or been the subject of an investigation.

Third party information in government files being processed pursuant to a first or third party request must be weighed between the public's right to know and the individual's right to privacy. In balancing the public interest in disclosure against personal privacy rights of individuals, the reviewer should first determine that a right of privacy exists. Unless the information at issue can significantly contribute to a public understanding of government operations and activities, the privacy interest should prevail and disclosure of more than public source information in widely acknowledged cases would be unwarranted. For additional information concerning the balancing of interests in personal information, see FOIA Update, Vol. X, No. 2, Spring 1989 edition, published by the Office of Information and Privacy, U.S. Department of Justice (See Attachment 3).



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

Request No. \_\_\_\_\_

Re: \_\_\_\_\_

Dear Requester:

The records responsive to your Freedom of Information Act (FOIA) request pertain to the investigation of third party individuals. In order to process any records other than public source material, we need either proof of death or the authorization (privacy waiver) from them. The only information subject to processing under the FOIA without either of the above would be public source material (court records, newspaper clippings, etc.). Such material may or may not be contained in our records.

If you want us to search for any releasable public source information responsive to your request, please let us know in writing. In addition, to ensure an accurate search of our indices, please provide the complete name, as well as the date and place of birth of the subject or subjects involved in the investigation if you have not already done so.

Proof of death can be a copy of a death certificate, obituary, or a recognized reference source. We ask that waivers of personal privacy be notarized. Waivers must specifically identify the person waiving privacy (including full name, date and place of birth, and present address), and must be specifically directed to the FBI, permitting the FBI to release personal information from its files about the person executing the waiver. The waiver should be dated within a reasonable time period preceding the request, and the original copy of the waiver must be provided to the FBI.

Without proof of death or appropriate authorization, the disclosure of law enforcement records or information about another person is considered an unwarranted invasion of personal privacy. Such records are exempt from disclosure pursuant to exemptions (b)(6) and/or (b)(7)(C) of the FOIA, Title 5, United States Code, Section 552.

You may submit an appeal from any denial contained herein by writing to the Co-Director, Office of Information and Privacy, U. S. Department of Justice, Suite 570, Flag Building, Washington, D. C. 20530, within 30 days from receipt of this letter. The envelope and letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIA request number assigned to your request so that it may be easily identified.

Sincerely yours,

J. Kevin O'Brien, Chief  
Freedom of Information-Privacy  
Acts Section  
Office of Public and  
Congressional Affairs

## U.S. Department of Justice



Federal Bureau of Investigation  
935 Pennsylvania Ave., N.W.

Washington, D.C. 20535-0001

Subject of Request: \_\_\_\_\_

FOIPA No.: \_\_\_\_\_

Dear Requester:

A copy of your letter asking for information maintained by the FBI under the Freedom of Information Act (FOIA) concerning another individual(s) is being returned to you.

Before we commence processing your request for records pertaining to another individual(s), we ask that you submit to the FBI either proof of death or a privacy waiver from that person. Proof of death can be a copy of a death certificate, obituary or a recognized reference source. Death is presumed if the birth date of the subject is more than 100 years ago. Without proof of death or a privacy waiver, the disclosure of law enforcement records or information about another person is considered an unwarranted invasion of personal privacy. Such records, if they exist, are exempt from disclosure pursuant to Exemptions (b)(6) and/or (b)(7)(C) of the FOIA, Title 5, United States Code, Section 552.

Enclosed is a Privacy Waiver and Certification of Identity form. (You may make additional copies if you are requesting information on more than one individual.) The subject of your request should complete this form and then sign it, preferably in the presence of a notary. The original privacy waiver must be provided to the FBI.

In order to ensure an accurate search of our records, please provide your subject's complete name, date of birth and place of birth, if you have not already done so.

Once you have provided us with the necessary information, as described above, we will conduct a search of our records and advise you of the results.

This response should not be considered an indication of whether or not records responsive to your request exist in FBI files.

You may submit an appeal from any denial contained herein by writing to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001, within 30 days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIA number assigned to your request so that it may easily be identified.

Sincerely yours,

Chief  
Freedom of Information-  
Privacy Acts Section  
Office of Public and Congressional Affairs

**All Attached Correspondence Must Be Returned To The FBI With This Letter**

Enclosure

MEMO 83 - ATTACHMENT 2

**Privacy Waiver and Certification of Identity**

Full Name: \_\_\_\_\_

Current Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18, United States Code (U.S.C.), Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5, U.S.C., Section 552a (i)(3) as a misdemeanor and by a fine of not more than \$5,000. I hereby waive my right to privacy, and I authorize the FBI to release any and all information relating to me

to: \_\_\_\_\_  
(Attorney or other Designee)

Your Signature: \_\_\_\_\_

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_,  
year of 19 \_\_\_\_\_

Signature of Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Notary Seal or Stamp

## FOIA Counselor

MEMO 83 - ATTACHMENT 3

# Exemption 6 and Exemption 7(C): Step-by-Step Decisionmaking

The Supreme Court's decision in Department of Justice v. Reporters Committee for Freedom of the Press, 109 S. Ct. 1468 (1989), greatly affects the protection of personal privacy interests under the Freedom of Information Act. The new guiding principles set forth in Reporters Committee, which are applicable to Exemption 6 and Exemption 7(C) of the Act alike, alter the mechanics of the basic "balancing process" by which privacy-protection decisions are to be made under these exemptions. Below is a step-by-step guide to the decisionmaking process that now should be followed under both Exemption 6 and Exemption 7(C):

## STEP ONE: DETERMINE WHETHER A PERSONAL PRIVACY INTEREST IS INVOLVED.

The first step in considering the possible applicability of Exemption 6 or Exemption 7(C) (once its threshold requirement is passed) is to determine whether disclosure would threaten a personal privacy interest. There first must be a viable privacy interest in the requested information for any further consideration of privacy-exemption protection to be appropriate. See, e.g., FOIA Update, Summer 1986, at 3-4. Remember: To qualify, the information must involve the privacy interest of an identifiable, living person. See FOIA Update, Sept. 1982, at 5. Possible Result: If no personal privacy interest is involved, then the privacy exemptions do not apply.

## STEP TWO: DETERMINE WHETHER A PUBLIC INTEREST IS INVOLVED.

Once a viable personal privacy interest is identified, the inquiry shifts over to the "public interest" side of the balance. Here, full consideration should be given to how disclosure would benefit the general public, but only in light of the content and context of the information in question. Remember: The requester's particular purpose, circumstances, and proposed use no longer are to be considered; this means that a requester's own "socially useful purpose" now receives no special attention. 109 S. Ct. at 1480-81 & n.20. Possible Result: If disclosure to the general public would serve no public interest at all, then any identified privacy interest should be protected under the applicable privacy exemption.

## STEP THREE: DETERMINE WHETHER AN IDENTIFIED PUBLIC INTEREST QUALIFIES FOR CONSIDERATION.

The next step, required now for the first time under Reporters Committee, is to determine whether an identified public interest actually

qualifies for balancing under the new Reporters Committee public interest standard. See 109 S. Ct. at 1482. Remember: Only if an identified public interest falls within the Act's "core purpose" of "shed[ding] light on an agency's performance of its statutory duties," does it qualify for inclusion in the balancing process. *Id.* at 1481-83. Information that "reveals little or nothing about an agency's own conduct" does not meet this narrowed public interest standard. *Id.* at 1481. Possible Result: If disclosure would serve no "core purpose" interest, then any identified privacy interest should be protected under the applicable privacy exemption.

## STEP FOUR: BALANCE THE PERSONAL PRIVACY INTEREST AGAINST ANY QUALIFYING PUBLIC INTEREST.

Lastly, if it is determined that a public interest qualifying under the Reporters Committee standard is present, then that interest should be balanced against the personal privacy interest identified at the outset. This balancing process necessarily requires some assessment and comparison of the relative magnitudes of the two interests. See, e.g., FOIA Update, Winter 1986, at 4. Remember: At this stage, the decisionmaking process becomes the same as the one traditionally employed under the Act's privacy exemptions. See FOIA Update, Spring 1988, at 3. Possible Results: If the privacy interest is greater, then it should be protected under the applicable privacy exemption; if the public interest is greater, then the privacy exemptions do not apply.

### Additional Considerations

In following this step-by-step decisionmaking process, certain additional considerations, which will apply in some cases, should be kept in mind. First, any public availability of the information in question will disqualify it from privacy protection only where it fails the new "practical obscurity" standard. See 109 S. Ct. at 1485. Second, the redaction of all identifying information sometimes will be sufficient to protect privacy interests, sometimes not, depending upon the nature of the records in full context of the request. See, e.g., Carter v. Department of Commerce, 830 F.2d 388, 391 (D.C. Cir. 1987); see also FOIA Update, Spring 1986, at 2. Finally, some information, as with the "rap sheets" sought in Reporters Committee itself, may be appropriate for "categorical" withholding. See 109 S. Ct. at 1483-85; see also FOIA Update, Spring 1989, at 6.



**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** Undercover Operations  
**Date:** March 31, 1998

The recording of an undercover contact is usually made on an FD-302 by the office responsible for the undercover operation and since the targets/subjects may reside or work anywhere in the country, copies of the FD-302 may appear in substantive files of other field offices. The contact with the subject may have been productive or unproductive; prosecution may have ensued or the investigation of the individual may have been closed. The undercover operation which generated the contact, however, could still be operative.

The FD-302 may be prefaced in the following manner: "On (date) SA (Name), using the undercover name (Name), contacted (Subject) at (Address), etc." References to the contact, however, could appear in any format or communication.

[REDACTED]

b7E

An unintentional disclosure of information regarding the contact to the subject could jeopardize an ongoing operation and the agents who are in contact with other individuals known to the subject of the closed case.

[REDACTED]

b7E

To prevent this possibility, the Undercover Operations Unit, Division 6, as well as the office responsible for the undercover operation, should be contacted to determine if the operation is still functional and if disclosure of the document in question would jeopardize the operation.

To: All FBI FOIPA Personnel  
From: J. Kevin O'Brien  
Subject: Visual Investigation Analysis (VIA) Chart  
Date: March 31, 1998

### Visual Investigation Analysis (VIA) Chart

The VIA chart, which is prepared by the VIA Group of the Criminal Investigative Division, is one continuous roll of paper and its size is determined only by the complexity of the case. It is utilized in rather large cases, especially white-collar investigations, to show all important events in a case.

For example, during the processing of a field office file pertaining to a kidnaping investigation, a VIA chart measuring 1½ feet in width by 35 feet in length was located. Neither the field office, nor FBIHQ, had a machine capable of reproducing a document of this size. At the suggestion of the VIA Group, a memo was written from Division 4 to Division 6 requesting reproduction of the chart. Thereafter, the chart was reproduced by the VIA Group at another Government agency having a machine capable of photocopying this document. The duplication fee incurred by FBIHQ was 39 cents per foot, which was passed on to the requester. Since the chart required the assertion of FOIPA exemptions, a second copy was prepared in excised form which was feasible for maintaining in the 190 file.

In the past, the VIA charts were retained by the VIA Group. However, they are now being incorporated into FBIHQ files and may be encountered by PLSs as a bulky enclosure to the main file. These charts are merely a recapitulation of information contained elsewhere in the file, are difficult to reproduce, and may contain exempt material. PLSs who receive requests for VIA charts or who locate one of the charts while processing either FBIHQ or field office files are to ensure that the Disclosure Unit Chief and/or the FOIPA Section Chief is notified prior to any processing. In most instances, it may be more practical to first advise the requester of the duplication fees involved, since there could be an exorbitant charge, or there may be no additional substantive information available for release on the chart.

**F O I P A**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**M A N U A L**

**MEMO 86**

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** White House Referrals and Consultations  
**Date:** March 31, 1998

The following is the full text of a memorandum sent by Associate Attorney General Webster L. Hubbell to the principal FOIA administrative and legal contacts at all federal agencies on November 3, 1993, regarding the FOIA consultation procedures required for any White House-originated record or information found in agency files:

"The purpose of this memorandum is to set forth the procedures to be followed by all federal agencies for the handling of any White House-originated record or information that is found responsive to an access request made under the Freedom of Information Act, 5 U.S.C. § 552 (1988).<sup>1</sup>"

"In processing FOIA requests, agencies searching for responsive records occasionally find White House-originated records (or records containing White House-originated information) that are located in their files. **These records raise special concerns, including questions of executive privilege, and require special handling--particularly in light of the White House's unique status under the FOIA.**"

"By its terms, the FOIA applies to "the Executive Office of the President," 5 U.S.C. §552(f), but this term does not include either 'the President's immediate personal staff' or any part of the Executive Office of the President 'whose sole function is to advise and assist the President.' Meyer v. Bush, 981 F.2d 1288, 1291 n.1 (D.C. Cir. 1993) (quoting H.R. Rep. No. 1380, 93d Cong., 2d Sess. 14 (1974)); see also, e.g., Soucie v. David, 448 F. 2d 1067, 1075 (D.C. Cir. 1971). This means, among other things, that the parts of the Executive Office of the President that are known as the 'White House Office' are not subject to the FOIA; certain other parts of the Executive Office of the President are."

"In coordination with the Office of the Counsel to the President, the Department of Justice has determined that agencies should implement the following FOIA procedures regarding all White House related records or information found in their files. Please note that these procedures prescribe 'consultations,' which do not involve a transfer of administrative responsibility for

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<sup>1</sup>This memorandum supersedes the Department of Justice's January 28, 1992 memorandum on this subject.

**FOIPA Numbered Memo 86**

Page 2

**White House Referrals and Consultations**

responding to a FOIA request, as distinct from complete record 'referrals.'<sup>2</sup> In all instances involving White House records or information, your agency will be responsible for responding directly to the FOIA requester once the process of consultation is completed."

"1. Records originating with any part of the 'White House Office'<sup>3</sup> should be forwarded to the Office of the Counsel to the President for any recommendation or comment it may wish to make, including any assertion of privilege, prior to your response to the FOIA requester. Please be sure to advise the White House Counsel's Office of any sensitivity that these records have from the perspective of your agency and whether you believe any FOIA exemption applies. If after considering the possibility of discretionary disclosure in accordance with the Attorney General's FOIA Memorandum of October 4, 1993, you believe that a FOIA exemption applies, you should mark each record accordingly to facilitate review by the Counsel's Office of your proposed response."

"All such consultation communications should be forwarded to the White House Counsel's Office at the following address:

Office of the Counsel to the President  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

"Please note that many records originating with the White House Press Office, such as "Press Briefings" and "White House Talking Points" (unless they are marked as, or appear to be drafts), are in the public domain and thus may be disclosed without consultation. Questions concerning records likely to be in the public domain should be referred to the White House

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<sup>2</sup>"See FOIA Update, Summer 191, at 3-4 ('OIP Guidance: Referral and Consultation Procedures') (further discussing differences between these two procedures).

<sup>3</sup>"The 'White House Office' includes, among other components, the Offices of the President, Cabinet Affairs, Chief of Staff, Communications, First Lady, Counsel to the President, Intergovernmental Affairs, Legislative Affairs, Management and Administration, Operations, Political Affairs, Presidential Personnel, Public Liaison, Scheduling and Advance, Staff Secretary, Correspondence, Visitors, Policy Development, Domestic Policy Council, Environmental Policy, Council of Economic Advisors, National Economic Council, Assistant to the President for National Security Affairs and Deputy Assistant to the President for National Security Affairs, Assistant to the President for Science and Technology, and the Presidents Foreign Intelligence Advisory Board. The White House Office also includes task forces and working groups created by the President or an official in the White House, and reporting to the President or an official in the White House, including, for instance, the National Performance Review."

**FOIPA Numbered Memo 86**

Page 3

**White House Referrals and Consultations**

Counsel's Office as well."

"It is possible that a record originating in the White House Office (or in the Office of the Vice President--see below) will be one over which the White House Office (or the Office of the Vice President) has retained control, in which case it will not be an 'agency record' subject to the FOIA even though it is located by a federal agency in response to a FOIA request. Accord, e.g., *Goland v. CIA*, 6707 F.2d 339, 345-48 (D.C. Cir 1978) (honoring 'retention of control' by non-FOIA entity), cert. denied, 445 U.S. 927 (1980; see also *Paisley v. CIA*, 712 F.2d 686, 692-94 (D.C. Cir. 1983); *Holy spirit Ass'n v. CIA*, 636 F.2d 838, 840-042 (D.C. Cir. 1981). Any such records should be identified for special handling."

"2. Any record originating with the Office of the Vice President or any of its component offices, offices which likewise are not subject to the FOIA, should be forwarded for consultation purposes to the Office of the Counsel to the Vice President, Old Executive Office Building, Room 269, Washington, D.C. 20501."

"3. All records originating with other offices within the Executive Office of the President (EOP--including the Office of Administration; the Office of Management and Budget; the Office of Science, Technology and Space Policy; the Office of the U.S. Trade Representative; the Council on Environmental Quality; and the Office of National Drug Control Policy--should be forwarded to the FOIA officers of the relevant individual EOP offices. This, again, is for consultation purposes only; agencies remain responsible for responding directly to the FOIA requester once these EOP consultations have been completed. For your convenience, a contact list for these EOP offices is attached."

"4. Responses to FOIA requests for any classified White House records or records originating with the National Security Council should be coordinated with Ms. Nancy V. Menan of the National Security Council at the following address:

Director of Information Disclosure  
Office of Information Disclosure  
National Security Council  
Old Executive Office Building, Room 392  
Washington, D.C. 20506

Records originating with the Assistant to the President for National Security Affairs or his deputy should continue to be treated as records originating in the White House Office (see footnote 3 above)."

"If any question arises regarding these procedures, either generally or in any particular case, please do not hesitate to contact Margaret Ann Irving, Acting Deputy Director of the Justice

**FOIPA Numbered Memo 86**

Page 4

**White House Referrals and Consultations**

Department's Office of Information and Privacy, at (202) 514-4251."

"Executive Office of the President--Agencies Subject to the FOIA"

Council on Environmental Quality  
Deputy General Counsel  
722 Jackson Place, N.W., Room 31  
Washington, D.C. 20006

Office of Administration  
Director, Administrative Services Division  
Old Executive Office Building, Room 350  
Washington, D.C. 20500

Office of Management and Budget  
Deputy Assistant Director for Administration  
New Executive Office Building, Room 9026\*  
Washington, D.C. 20503

Office of National Drug Control Policy  
FOIA Officer  
750 17th Street, N.W., 8th Floor  
Washington, D.C. 20500

Office of Science, Technology and Space Policy  
Executive Director  
726 Jackson Place, N.W., Room 5013  
Washington, D.C. 20500

Office of the U.S. Trade Representative  
FOIA Officer  
600 17th Street, N.W., Room 222  
Washington, D.C. 20506

\* OMB requests that records be forwarded to the attention of Darrell A. Johnson at this address.

**F O I P A**  
**M A N U A L**

**MEMO 87**

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** **Witnesses - Protection of Information Provided in Confidence to the FBI by Persons Who Subsequently Testify in Criminal Trials**  
**Date:** March 31, 1998

FBI records, such as FD-302s, often contain information provided on a confidential basis by persons who subsequently testify in criminal trials. The issue to be considered is whether Exemptions (b)(7)(C) and (b)(7)(D) protect the information provided by confidential sources who later testify in open court.

Exemption (b)(7)(C) protects information compiled for law enforcement purposes which, if disclosed, could reasonably be expected to constitute an unwarranted invasion of personal privacy. The personal privacy interests inherent in that information must be balanced against the public interest in disclosure. Several courts have found, however, that there is no reasonable expectation of privacy in matters of a public record. Since testimony in open court becomes a public record, personal information given in testimony in open court may not be withheld under exemption (b)(7)(C). See, e.g., Kiraly v. FBI, 728 F.2d 273, 280 (6th Cir. 1984); Brown v. FBI, 658 F.2d 71, 75 (2d Cir. 1981); Cooper v. IRS, 450 F. Supp. 752, 754 (D.D.C. 1977).

An obvious problem in applying this rule is that FBI records may not reflect what testimony was given during a trial. If FBI records do not include a trial transcript, Exemption (b)(7)(C) may apply because there is no way for a PLS to determine from FBI records which information is in the public record.

b2

It should be noted that in applying the balancing test under Exemption (b)(7)(C), the interest of the general public must be served by disclosure and not the personal interest of the defendant/requester. Convicted requesters often make FOIPA requests in the hope of overturning their convictions: they argue that the public interest to be served by disclosure is the maintenance of the integrity of our criminal justice system. Courts have generally held that such a naked assertion is too uncertain to warrant the invasion of another's personal privacy rights. Brown, supra, 658 F.2d at 75.

As for exemption (b)(7)(D), the general rule is that "subsequent disclosure of information originally given in confidence does not render nonconfidential any of the information originally provided." Lame V. United States Department of Justice, 654 F.2d 917, 925 (3rd Cir. 1981);

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accord Lesar v. United States Department of Justice, 636 F.2d 472 (D.C. Cir. 1980). However, there can be a waiver of confidentiality, either explicit or implicit, by the source. DOJ policy at this time is that a waiver will be found as to information which is given in testimony in open court. Once again, though, if FBI records do not include a trial transcript, Exemption (b)(7)(D) may apply because there is no way to determine from FBI records which information is in the public record.

Another point which needs to be made is that Exemption (b)(7)(D) does not depend on a balancing test or on the information provided: "Exemption (b)(7)(D) differs from other FOIA exemptions in that its applicability depends not on the specific factual contents of a particular document; instead, the pertinent question is whether the information at issue was furnished by a 'confidential source' during the course of a legitimate criminal law enforcement investigation." Once this question has been answered in the affirmative, it must be determined if it was provided under an expressed or implied promise of confidentiality and reviewed as such for any discretionary disclosure of information.

Finally, PLSs should be aware that under certain circumstances, Exemption (b)(7)(F) may be used even though (b)(7)(C) and (D) are inapplicable.



**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** World War II Censorship Documents  
**Date:** March 31, 1998

By letter dated 11/14/77, the National Archives and Records Administration (NARA) transmitted guidelines which are set out below, to be used by our agency and other agencies to review and process World War II censorship documents or documents that contain information taken from censorship documents. It is not necessary to refer censorship documents to NARA. We process them using the following NARA guidelines.

### **Guidelines for Declassification and Release of World War II Censorship Documents**

1. Coverage: These guidelines may be applied to:

(a) Censored communications and information derived therefrom whether from mail, cable, radio or other means of communications, passing between the United States and its territories or possessions and any foreign country or touching the territory of the United States at any point while in transit from one foreign country to another.

(b) Censorship activities carried on by the War and Navy Departments from December 8, 1941 and the Office of Censorship from March 15, 1942 through August 15, 1945.

(c) Except for those portions of RG 216 (Records of the Office of Censorship) which were placed under seal by President Truman in 1945, these guidelines may be applied to all censored communications and related documents and/or information derived therefrom in documents found in government agency records and in donated historical materials.

2. Security-classified information: All national security-classified information in censored communications covered by this guideline which was originated by the military departments or the Office of Censorship is automatically declassified unless it contains information categorized under paragraphs (a), (b), and (c) of this section. Information in these three categories will be referred to the Director, Records Declassification Division, National Archives and Records Service, for further action.

(a) Information concerning communications intelligence or cryptography and their

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related activities.

(b) Information concerning the intelligence method of secret writing, microphotography and their detection.

(c) Information concerning foreign governmental censorship activities as disclosed by U.S. liaison with foreign censorship agencies and not previously declassified and released.

3. Unclassified and declassified information in censorship intercepts and similar documents: Information in censored communications and related documents covered by this guideline that clearly identifies living individuals or organizations will normally be exempted from release in those cases where its disclosure would constitute a clearly unwarranted invasion of personal privacy [cf. 5 U.S.C. 552 (b)(6) and/or (b)(7)(C)]. Reviewers of documents covered by this portion of the guideline should determine whether the document contains information about a living individual which reveals details of a highly personal nature which the individual could reasonably assert a claim to withhold from the public to avoid a clearly unwarranted invasion of privacy. Such information may be disclosed, however, to the individuals who were parties to the communication or their authorized representatives. Further, segregated portions of a record document requested under the Freedom of Information Act shall be provided to any person requesting such record after deletion of the portions which are exempt under this guideline. Information which may be exempted from such release may be further defined as:

(a) Information clearly identifying living individuals or organizations whose communications were intercepted, were the object of surveillance or were of particular interest to the intelligence agencies of the United States or its Allies, including the following:

(1) Originals, photocopies, transcripts or extracts from intercepted communications;

(2) Daily reports (also known as "Dayreps") which were Office of Censorship messages to stations providing background information on persons and organizations of interest to the Office of Censorship;

(3) Special watch instructions (also known as SWIs) which were instructions or supplemental information on particular persons, addresses, organizations, etc., whose communications are to be intercepted;

(4) Watch lists/flash lists which are lists of persons, organizations, addresses, etc., with indicator of subject interest, whose communications are to be intercepted, including proposed entries and deletions;

(5) White lists which are names of persons whose communications were to be bypassed without examination including entries and deletions;

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(6) Border watch/flash lists which includes names of persons whose communications across the U.S. borders were of particular interest to a local censorship station, including entries and deletions thereto.

(b) Information clearly identifying living individuals or organizations involved in either complaints or recommendations arising out of such complaints about carrying out the specific provisions of the Code of Wartime Practices for the American Press and Broadcasters and not previously wholly releasable.

**To:** All FBI FOIPA Personnel  
**From:** J. Kevin O'Brien  
**Subject:** COINTELPRO (Counter-Intelligence Program)  
**Date:** March 31, 1998

### Description of COINTELPRO

The FBI's Counterintelligence Program, widely referred to as COINTELPRO, was the overall name for numerous programs of disruption, dirty tricks, and other projects undertaken by the FBI against individuals and organizations under investigation by the FBI. One such organization was the Communist Party USA. Through a variety of techniques, such as anonymous letters and mailings, these activities caused unexpected consternation and disruption among the members. At times, the more sophisticated techniques and activities exposed and neutralized the communists and caused defections or expulsions within the Party ranks. COINTELPRO activities were formalized in 1956 and was discontinued in 1971.

In 1978, the Department of Justice, Office of Professional Responsibility completed the COINTELPRO Notification Program which sought to notify 527 individuals (61 of whom the program failed to locate) that they could receive information on COINTELPRO actions against them, however, many people besides the 527 were targeted under COINTELPRO.

### Procedures on Handling FOIPA Requests Involving COINTELPRO

When a COINTELPRO action was conducted against an individual or organization, appropriate correspondence was inserted in one of the COINTELPRO files. A copy of the correspondence may, or may not, have been designated for the main substantive file on the individual or organization. The name of the individual or organization may, or may not, have been indexed depending on the circumstances and the action of the employee processing the mail.

As there are an estimated 50,000 or more pages in the twelve COINTELPRO files, it would be impractical to conduct a page-by-page review for a particular subject. Therefore, when a FOIPA requester indicates in the request letter that the subject of the request was a target of COINTELPRO activities, our search of FBIHQ files should be limited to a review of: 1) the main substantive file of the requesting individual or organization and 2) any main file equivalents which indicate the individual or organization has been indexed in any one of the twelve COINTELPRO files. The twelve main file equivalent COINTELPRO files are:

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**COINTELPRO (Counter-Intelligence Program)**

Communist Party	Bufile:	100-3-104
Socialist Workers Party	Bufile:	100-436291
White Hate	Bufile:	157-9
Black Nationalist	Bufile:	100-448006
New Left	Bufile:	100-449698
Special Operations	Bufile:	105-174254
Soviet-Bloc	Bufile:	65-69260
Border Coverage	Bufile:	100-434445
Yugoslav	Bufile:	105-190290
Cuban	Bufile:	105-99938
Puerto Rican	Bufile:	105-93124
Hoodwink	Bufile:	100-446533

If a "no record" response is going to be given to a requester who has indicated he may have been the target of a COINTELPRO action, the following language should be used:

"A review of the appropriate records pertaining to COINTELPRO actions was conducted and no indication that you were ever the target of a COINTELPRO action was located."

**NOTE:** If FBI records indicate a COINTELPRO action was not reviewed in accordance with the Attorney General's notification program regarding COINTELPRO activities, then notice should be sent to the attention of the Counsel, Office of Professional Responsibility, Room 4304 - MJB at the Department of Justice.

**CLASSIFICATION MATTERS CONCERNING**  
**COINTELPRO MATERIAL**

During a review of previously processed material located in the FBI FOIPA Reading Room, it was determined that there were some instances where the Reading Room copy and the original file copy were marked differently as to classification.

In order to ensure that COINTELPRO material processed under FOIPA, litigation or any other purpose, is consistent with material previously released and currently located in the FBI FOIPA Reading Room, a memorandum is being placed as a "Top Serial," not to be serialized, in each of those original COINTELPRO files. PLSs processing material from these files are placed on notice that the Reading Room copy must also be reviewed to insure both are marked in a consistent manner. When such a review is completed, a notation must be made on the original that it has been compared to the Reading Room copy.

