

RGD:CMB:ch

Joseph T. Sneed
Deputy Attorney General

Robert G. Dixon, Jr.
Assistant Attorney General
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cc; Files
Mr. Ulman
Mr. Eardley (FBI)
Mrs. Gauf ✓
Mr. Buxton

MAY 10 1973

*Out 5/10/73
to DAG*

Destruction of FBI files kept on Members of
Congress and other public officials.

Attorney General Kleindienst received a letter, dated April 13, 1973, from Senator Philip A. Hart inquiring about the Department's views concerning the destruction of FBI files kept on Members of Congress and other public officials. The matter was referred to us by your Office for preparation of a response for your signature.

Senator Hart's letter, which is attached hereto, indicates that former Acting FBI Director Gray stated before the Senate Judiciary Committee that these files must be destroyed pursuant to certain statutory provisions.

We have prepared the attached response to Senator Hart. It reaches the conclusion that since the above-mentioned files would appear to be "records" within the terms of 44 U.S.C. § 3301, they must be destroyed in accordance with the provisions of 44 U.S.C. §§ 3302-3303a. These provisions require the submission of records proposed for destruction to the Administrator of General Services for his approval.

We have been informed by Acting Director Ruckelshaus that the Bureau concurs in our conclusion that these files must be destroyed in accordance with the above-mentioned statutory provisions. A copy of the Bureau's response is also attached. We have also discussed the matter with Mr. Carl Eardley, an assistant to Mr. Ruckelshaus, who informs us that due to the limited nature of Mr. Ruckelshaus' tenure at the Bureau, they believe that the question of the possible actual destruction of the files should not be for his determination. It was his view that the response to Senator Hart should indicate that the matter would be brought to Secretary Richardson's attention once he is confirmed.

We would add that we have not seen the FBI files,
and are not aware of what information they contain.

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Honorable Philip A. Hart
United States Senate
Washington, D.C. 20510

Dear Senator Hart:

Attorney General Kleindienst has asked me to reply to your letter requesting information concerning the destruction of files kept on members of Congress or on other public officials by the Federal Bureau of Investigation.

Title 44, Chapter 33 of the United States Code contains the general statutory provisions which cover the disposal of records by federal agencies. "Records" as used in that chapter are defined as including all "books, papers, maps, photographs, or other documentary materials . . . made or received by an agency of the United States Government under federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decision, procedures, operations, or other activities of the Government or because of the informational value of data in them," 44 U.S.C. § 3301. The chapter provides that all federal agencies shall submit to the Administrator of General Services lists of records that do not warrant further preservation by the Government. 44 U.S.C. § 3303. The Administrator shall determine the appropriateness of disposal of the records. 44 U.S.C. § 3303a. The Administrator is also directed to promulgate regulations establishing procedures for the disposal of records authorized for disposal. 44 U.S.C. § 3302.

The implementing regulations of the General Services Administration to the provisions of Title 44 further elaborate the standards, procedures, and techniques for record management by the Federal Government, 41 C.F.R. § 101-11.000 et seq.

We are not aware of any provisions in Department of Justice Regulations (see generally chapter 28 C.F.R.) which relate specifically to this problem. Disposal of records by any federal agency is covered by the provisions of Title 44 mentioned above.

Since the FBI files mentioned above would appear to be "records" under the terms of 44 U.S.C. § 3301, we believe that they must be destroyed in accordance with the provisions of 44 U.S.C. §§ 3302-3303a.

With regard to your inquiry as to our views concerning arrangements for possible disposal of such records, the matter will be brought to the attention of Secretary Richardson upon his confirmation and appointment as Attorney General.

Sincerely,

Joseph T. Sneed
Deputy Attorney General