



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 30, 2006

The Honorable Arlen Specter
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find responses to questions posed to FBI Director Robert S. Mueller III, following Director Mueller's appearance before the Committee on May 2, 2006. The subject of the Committee's hearing was "Oversight of the Federal Bureau of Investigation." The FBI submitted these responses for clearance on July 10, 2006. We hope this information is helpful to the Committee.

The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of these responses. If we may be of additional assistance in connection with this or any other matter, we trust that you will not hesitate to call upon us.

Sincerely,

A handwritten signature in cursive script that reads "James H. Clinger".

James H. Clinger
Acting Assistant Attorney General

Enclosure

cc: The Honorable Patrick J. Leahy
Ranking Minority Member

8. Under which statute do you seek to reclaim the Jack Anderson documents?

Response:

The FBI met with the Anderson family in an effort to review the files with their consent. At this time the FBI is not seeking to reclaim any documents.

9. In your testimony, you note that it is imperative to protect the nation's security while still preserving our civil liberties. Do you agree that prosecuting reporters under the Espionage Act would protect the nation without unduly burdening freedom of the press?

Response:

DOJ has never in its history prosecuted a member of the press under Section 793, 798, or any other section of the Espionage Act of 1917 for the publication of classified information, even while recognizing that such a prosecution is possible under the law. DOJ's policy in this regard is published at 28 C.F.R. § 50.10, which requires that the Attorney General approve not only prosecutions of members of the press but also investigative steps aimed at the press, even in cases where the press is not itself the target of the investigation. This policy - voluntarily adopted by DOJ - ensures that any decision to initiate criminal proceedings against the press is made at the very highest Departmental level and only after all relevant facts and circumstances have been considered and other options have been exhausted. The Attorney General has stated that DOJ's "primary focus" is on the leakers of classified information, as opposed to the press, and that the country's national security interests and First Amendment interests are not mutually exclusive and can both be accommodated. The FBI fully acknowledges that freedom of the press is vital to our nation and protected by the First Amendment to the Constitution.

10. What papers is the FBI attempting to seize from Jack Anderson, and why is it trying to take them? Considering that Anderson stopped writing his column in the mid-1980's, at best these papers are twenty years old, and they should have little to do with current issues. There have been allegations that the FBI is interested in them because Anderson discovered certain things about J. Edgar Hoover's personal life; is this true? Or do these papers concern the recent court case against two former AIPAC lobbyists, Steven J. Rosen and Keith Weissman? Feel free to answer this question in a classified session, if you so wish.

Response:

The FBI contacted the Anderson family to seek their consent for an FBI review of files in their possession. Through discussions with the family and others, the FBI confirmed that the files contained documents marked as classified and that the

papers were being reviewed for purposes of making them publicly available. Consistent with our obligations under existing law and Executive Orders, we sought to review the papers to determine, among other things, whether public disclosure of any of them would cause a risk to national security. Access was not sought because Anderson allegedly had information regarding former Director Hoover's personal life.

Additional information responsive to this inquiry is classified and is, therefore, provided separately.

FBI TRILOGY Questions

11. At least \$7.6 million worth of equipment purchased for Trilogy is unaccounted for in a GAO report entitled "Weak Controls over Trilogy Project Led to Payment of Questionable Contractor Costs and Missing Assets" from February 2006. What steps have been taken to locate these assets? Are the Trilogy contractors required to reimburse the FBI for equipment losses? What is being done to ensure that the same missteps are not repeated during the Sentinel or subsequent purchasing projects?

Response:

To provide context for the Report's findings regarding property controls, the FBI notes that more than 44,000 pieces of accountable property were successfully deployed and tracked in the FBI's property management system during Trilogy's development. The Government Accountability Office (GAO) report initially identified 1,404 items (approximately 3% of the total) of unaccounted for or improperly documented property. As of April 2006, the FBI had accounted for more than 1,200 of these items, and we are continuing our efforts to locate or document the remaining Trilogy assets.

It was always the intent of both the FBI and the General Services Administration's (GSA) Federal Systems Integration and Management (FEDSIM) Center to have the Defense Contract Audit Agency (DCAA) conduct final close-out audits to assess final costs, including direct and indirect labor costs. This is the appropriate means of identifying and addressing any potential overpayments to contractors. Close-out audits are designed to disclose and resolve questionable costs of the type GAO reported, as well as costs deemed unallowable under the contract. The initiation of the close-out audits has been delayed until final rates for both the prime contractors and all subcontractors have been approved by DCAA and final reconciliation is completed by both prime contractors. At that time both prime contractors will be able to submit their final invoices and DCAA will be able to complete the final closeout audit. While the prime contractors are reconciling their subcontractor costs and waiting for DCAA approval of their final rates,