

to be in dispute, except insofar as the affidavit of William N. Preusse admits that some of the originals of the so-called security investigation of Dr. King "were created at a time when the FBI did not place a classification marking on documents prepared for internal use only, despite the fact that the information contained therein would qualify for classification under EO 10450, the predecessor of EO 11652." (Preusse Affidavit, ¶3(b)) Notwithstanding the lack of any classification of some of the underlying original documents and the blatant procedural irregularities in the classification of the notes which Justice Department Task Force made during its review of them, the affidavit of Lewis L. Small does state: "As a result of my examination, I have concluded that each and every document or portion thereof is currently and properly classified under the applicable substantive and procedural requirements of EO 11652" (Small Affidavit, ¶6)

Plaintiff also takes issue with the claim that these records are classified in accordance with the substantive provisions of Executive Order 11652. Plaintiff contends that there was no basis for any national security investigation of Dr. King aside from the paranoid suspicions of former FBI Director J. Edgar Hoover. There is, therefore, no substantive basis for classifying records of the FBI's COINTELPRO campaign against Dr. King. These are the records of a dirty political campaign, not a national security matter. (See Weisberg Affidavit, ¶43, 45)

Exemption (b) (2)

Defendant has asserted Exemption 2 to protect FBI informant symbol numbers and states that deleting these numbers does not detract from the substantive information provided to plaintiff. (Shaheen Affidavit, ¶16.2) Defendant's Memorandum of Points and Authorities in support of its Motion for Summary Judgment asserts that the symbol numbers have no substantive significance and "can hardly be characterized as the subject of a legitimate or public interest" (Defendant's Memorandum, p. 10) Plaintiff takes

issues with these assertions. The informant symbol numbers do have substantive significance. They contribute both to the content of the information made available and to the evaluation of the significance of that content. Thus there is a legitimate public interest which will be served by their disclosure, an interest which is enhanced by the importance of these records to a fuller understanding of a significant aspect of recent American history, the FBI's COINTELPRO campaign against a major political leader and the social movement he led. (See Weisberg Affidavit, ¶138)

Defendant does not directly state, either by affidavit or in its Memorandum, that disclosure of informant symbol numbers will harm the government. However, the special emphasis it gives to certain language in a quote from Vaughn v. Rosen at page nine of its Memorandum gives rise to an inference that defendant does in fact contend this. If so, this issue also is in dispute because plaintiff contends that there can be no harm to the government's interests where the disclosure does not identify the informant.

Exemption 7(C)

Plaintiff contends that much information which has been deleted pursuant to Exemption 7(C) is undoubtedly already publicly known, that it is not confidential information, that it is unlikely that it will cause new or additional damage to personal reputations, if any damage at all. These matters are apparently all in dispute, although the defendant has avoided some of them. (See Shaheen Affidavit, ¶16.4)

Defendant has also used Exemption 7(C) to delete the names of FBI personnel below the rank of Section Chief on grounds that to release their names "may well impair their ability to conduct subsequent investigations . . ." (Shaheen Affidavit, ¶16.4) Plaintiff disputes this, particularly in light of the fact that

the Warren Commission published the names of many such FBI agents nearly fourteen years ago without incurring the consequences hypothesized by the defendant.

Exemption 7(D)

With respect to defendant's claim that the Memphis and Atlanta Police Department records obtained by the Department of Justice Task Force are exempt under 7(D), plaintiff contends that the following issues of material fact are in dispute: 1) that these records were obtained from a confidential source; 2) that these records were provided to the Department of Justice as the result of any assurance of confidentiality, express or implied; 3) that these records contain confidential information only; 4) that any allegedly confidential information was supplied only by the confidential source; and 5) that the disclosure of these records "could . . . be expected to diminish the ability of the Department of Justice to acquire similar records from other state and local law enforcement agencies in the future." (Cf. Shaheen Affidavit, ¶16.5; Weisberg Affidavit, ¶¶16-38)

With respect to defendant's employment of 7(D) for records other than those of the Memphis and Atlanta Police Departments, all of factual issues listed in the preceding paragraph except the last one are again in dispute.

With respect to the OPR and Civil Rights Division records which relate to the alleged security investigation of Dr. King, plaintiff contends that there was no "lawful security intelligence investigation" of Dr. King; and that the excisions made on this ground include information not provided to the Department of Justice as the result of any assurance of confidentiality, express or implied; that the excisions do not contain confidential information only; that allegedly confidential information in such excisions was not supplied only by the confidential source. Plain-

tiff believes that these are genuine issues of material fact which are in dispute.

Plaintiff contends that in all likelihood most of the information sought to be protected by Exemption 7(D) is in fact already publicly known. He believes this issue, too, is in dispute.

Exemption 7(E)

Defendant has deleted some material on the grounds that it would identify certain investigatory techniques and procedures used by the FBI which are not public knowledge. (Shaheen Affidavit, ¶16.6) Plaintiff contends that the FBI may be employing this provision to cover procedures or techniques which are in fact already publicly known. (See Lesar Affidavit, ¶7)

Respectfully submitted,

JAMES H. LESAR
910 16th Street, N.W., #600
Washington, D.C. 20006
Phone: 223-5587

Attorney pro se

Exhibit 1

C.A. 77-0692

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES GENERAL)
 SERVICES ADMINISTRATION,)
)
 Defendant.)

Civil Action No. 2052-73

FILED

MAY - 5 1971

MEMORANDUM AND ORDER

JAMES F. DAVEY, CLERK

Plaintiff invokes the Freedom of Information Act, 5 U.S.C. § 552, in an effort to gain access to a transcript of the Warren Commission's January 27, 1964, executive session, presently in the custody of the National Archives. The defendant General Services Administration, which operates the Archives, has moved for summary judgment on the ground that the transcript at issue is shielded by the Act's first, fifth and seventh exemptions. 5 U.S.C. § 552(b)(1, 5, 7). The issues have been thoroughly briefed by all parties and are ripe for adjudication.

Initially, the Court probed defendant's claim that the transcript had been classified "Top Secret" under Executive Order 10501, 3 C.F.R. 979 (Comp. 1949-53), since such classification would bar further judicial inquiry and justify total confidentiality. 5 U.S.C. § 552(b)(1); E.P.A. v. Mink, 410 U.S. 73 (1973). However, defendant's papers and affidavits, supplemented at the Court's request, still fail to demonstrate that the disputed transcript has ever been classified by an individual authorized to make such a designation under the strict procedures set forth in Executive Order 10501, 3 C.F.R. 979 (Comp. 1949-53), as amended by Executive Order 10901, 3 C.F.R. 432 (Comp. 1959-63).

Defendant's reliance on the seventh exemption, on the other hand, appears to be fully justified by the record. The Warren Commission was an investigatory body assigned to look

into the assassination of President Kennedy and the subsequent murder of Lee Harvey Oswald. It can hardly be disputed that its findings would have led to criminal enforcement proceedings had it uncovered evidence of complicity in those events by any living person. The Archives' collection of Warren Commission transcripts therefore constitutes an "investigatory file . . . compiled for law enforcement purposes . . ." within the meaning of the seventh exemption. 5 U.S.C. § 552(b)(7).

The instant case is squarely controlled by the decision of this Circuit in Weisberg v. Dept. of Justice, 489 F.2d 1195 (D.C. Cir. 1973), in which the same plaintiff sought access to certain materials collected by the Federal Bureau of Investigation during its investigation into the assassination of President Kennedy. The Court concluded that the Bureau's intensive inquiry, undertaken at the special request of President Johnson, was clearly conducted for law enforcement purposes even if no violations of federal law were involved, so that the resulting investigatory files were protected. Id. at 1197-98. No less protection can be afforded to the files of the Warren Commission, which was also instituted by the President for the principle purpose of examining evidence of criminal conduct arising out of the assassination. See Executive Order No. 11130, 3 C.F.R. 795 (Comp. 1959-63).

It is therefore

ORDERED that defendant's motion for summary judgment is granted.


UNITED STATES DISTRICT JUDGE

May 8, 1974.

Exhibit 2

C.H. 77-0692

EXHIBIT 12

~~TOP SECRET MATERIAL ATTACHED~~

4:14 p.m.

October 25, 1963

MEMORANDUM TO MR. TOLSON
MR. BELMONT
MR. MOHR
MR. DE LOACH
MR. ROSEN
MR. SULLIVAN

The Attorney General called and advised me there was a lot of talk at the Pentagon regarding the document, Communism and the Negro--A Current Analysis, dated 10-10-63, which had been disseminated to the military and intelligence agencies by the Bureau. The Attorney General anticipated that this information would leak out as the military didn't like the Negroes.

The Attorney General felt we should get back all copies of the document. I told him we had a tally of all copies and we would gather them from all agencies to which they were disseminated. The reason to be given for recalling would be revisions. I also told him if any newspapers asked about this, no comment would be made and no mention would be made that such a document existed.

4:40 p.m.

I advised the Attorney General that Liaison representatives had been sent to get all copies of this document.

The Attorney General wants all copies disseminated to Department officials recalled also.

Very truly yours,

J. E. H.

John Edgar Hoover
Director

REC-22

SENT FROM D. O.
TIME 12:55 PM
DATE 28 Oct 63
BY [Signature]

100-3-115-432

OCT 25 1963

- Tolson _____
- Belmont _____
- Mohr _____
- Casper _____
- Callahan _____
- Conrad _____
- DeLoach _____
- Evans _____
- Gale _____
- Rosen _____
- Sullivan _____
- Tavel _____
- Trotter _____
- Tele. Room _____
- Holmes _____
- Gandy _____

JEH:emh
(10)

Miss Holmes

6 OCT 25 1963 UNIT

CP USA Negro Communism

Handwritten: Xerox copy given to CAR & JFH
JFH/mb
EX-115

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- 1 - Plastiplate
- 1 - Yellow file copy
- 1 - Mr. Belmont
- 1 - Mr. Sullivan
- 1 - Mr. Bland
- 1 - Mr. Baumgardner
- 1 - Section tickler
- 1 - Mr. Evans

*1 xerox copy given to OPR 5/9/76
JTB/mbk*

COMMUNISM AND THE NEGRO MOVEMENT--
A CURRENT ANALYSIS

October 16, 1963



*Classification
Return 10/25/77
65-1121P*

Classified by *025*
Exempt from *2, 3, 4*
Date of Declassification Indefinite
3/9/77

- Mr. Tolson _____
- Mr. Belmont _____
- Mr. Mohr _____
- Mr. Casper _____
- Mr. Callahan _____
- Mr. Conrad _____
- Mr. DeLoach _____
- Mr. Evans _____
- Mr. Gale _____
- Mr. Rosen _____
- Mr. Sullivan _____
- Mr. Tavel _____
- Mr. Trotter _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

NOTE: See memo Sullivan to Belmont 10/15/63 re: COMMUNISM
AND THE NEGRO MOVEMENT--A CURRENT ANALYSIS. CDB/dww.

*CDB/kwb:bt
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Excluded from automatic
downgrading and
declassification

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100-3716-416

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[REDACTED] (b)(1)

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Introduction

The racial unrest in the United States is currently the target for a determined concentration of communist effort.¹ Communists are using every means possible to divert the course and force of the unrest into support of communist objectives. Long-range communist strategy leads to the establishment of a Negro-labor coalition which the communists hope to be able to manipulate as a powerful political-action weapon. Using this weapon, they aim to provoke class struggle and promote legislation which can serve as a step toward a communist system of government.²

At first glance, the communist goal may seem unrealistic. But it develops realistic potential when all aspects of current communist tactics being used in connection with the current racial situation are viewed in their totality. More, it constitutes a serious national security problem in light of the fact that the individual playing a most dominant role as a leading spokesman for the estimated 20 million Negroes in this country today is knowingly, willingly, and regularly cooperating with and taking guidance from communists. This individual--Martin Luther King--is using the communists and, in turn, is being used by them in an unholy alliance that could have serious consequences both for the Negro movement and this Nation.

Hand in Hand

[REDACTED]

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[REDACTED]

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Since 1957, communists close to King have blended their actions skillfully into his organization, the Southern Christian Leadership Conference (SCLC), and have done so clearly with his approval.

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Activities Blended

The operations of the SCLC's New York office illustrate how communists blended their activities into support of King. A major function of the office is the solicitation of funds for King through letters mailed out over his signature.³¹ It appears, for example, that the mailing list for one such solicitation was that used by the publishers of the "National Guardian," a weekly publication which has been cited as "a virtual official propaganda arm of Soviet Russia."^{32 33}

[REDACTED]

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Two-fold Purpose

At the meeting, Hudson announced that he had come to organize full-time Party members to do both Party work and mass-organization work. The purpose was twofold - to develop recruits for the Party and get all eligible Negroes registered to vote.³⁶ (u)

[REDACTED]

(b)(1)

This fitted nicely into the communists' scheme of things. Only a month before, Caulfield had instructed Party members in his area to conceal their Party affiliations and join mass organizations interested in the integration movement. They were told to urge complete voter registration for all members of the groups and, then, to maintain close contacts with the leaders of these groups to influence them to follow the Party line.³⁹ (u)

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O'Dell's Exposure

[REDACTED]

(b)(1) [REDACTED] O'Dell went to Atlanta to work for the SCLC and used the name J. H. O'Dell. But in October, 1962, several newspaper articles exposed his connection with the SCLC and his communist affiliation.

King's Reaction

King reacted by trying to minimize O'Dell's role with the SCLC. He said most of O'Dell's work had been in the North and simply involved mailing procedures. He also tried to ignore any communist affiliations on the part of O'Dell and stated that O'Dell had temporarily resigned pending an SCLC inquiry into the matter.⁴⁴

O'Dell's "temporary resignation" consisted of his return to New York, where he continued to operate out of the SCLC's office.⁴⁵ He remained there until July, 1962, when King advised him his "temporary resignation" was being made permanent, not, as King put it, because the SCLC inquiry had disclosed any present connections between O'Dell and the Communist Party but because of the emotional public response.⁴⁷

Reluctant Action

Yet it is known that, prior to his action in making O'Dell's resignation permanent, King not only had indicated he knew of O'Dell's communist affiliation but actually had received information on two separate occasions from unimpeachable sources that O'Dell was definitely a communist. In fact, it can be said that King took action on O'Dell reluctantly and only after being urged to do so most urgently and emphatically by high level and, again, unimpeachable authority.⁴⁹ In addition, even after O'Dell's "permanent resignation" was accepted, he is known to have transacted business for the SCLC later the same month.⁵⁰

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Clarence Jones' Role

[REDACTED]

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[REDACTED]

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An Opportunistic View

In discussing Rustin with Jones, King exhibited an opportunistic nature.⁶³ At one time, Rustin had been Assistant Secretary of the SCLC.⁶⁴

[REDACTED]

(b)(7)(c)

King told Clarence Jones he thought it might be a propitious moment to bring Bayard Rustin back into the SCLC.⁶⁵ He based his view on the fact that Rustin had received good publicity as a result of his role as Deputy Director of the August March on Washington.⁶⁸

Communist Affiliations Ignored

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In fact, King seemed to be more concerned about [REDACTED] than his prior communist affiliations, which King did not even mention in his discussion with Jones.⁶⁹ Yet, Rustin had publicly admitted affiliation with the communist movement in the late 1930s. He had publicly supported various communist causes and was one of a select group of observers permitted to attend the Communist Party's 10th National Convention in 1957.⁷¹ He has maintained contact with the Party's National Secretary, Benjamin J. Davis, for a

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[REDACTED]

Questionable Personal Relations (b)(1)

Supplementing the picture of King as an unprincipled man is his role as a clergyman. He seeks refuge in this role when pressed concerning his relationship with communists. Recently, for example, he was asked by reporters if he took orders from the communists and also whether he took them from Stanley Levison. He replied that he took orders only from God.¹⁰ But his personal conduct belies it.

[REDACTED]

The Broad Target (C.O.)

While the communists are concentrating heavily on Martin Luther King, they are not ignoring the other Negro leaders and the organizations active in the integration movement, the civil rights movement, and the like. Through the years, such organizations have been a constant target for communist-infiltration efforts. The developing racial unrest in this country in recent years has been accompanied by an increasing determination on the part of the communists to inject themselves into every aspect of the situation through their propaganda and agitation. (u)

August March Added Impetus

The August March on Washington gave added impetus both to the activities of those demonstrating in favor of equal rights for Negroes and to communist activities designed to exploit such incidents. Since the March, there has been a veritable upsurge of communist activities related to demonstrations, rallies, marches, and the like which have erupted on the national scene. Today, there are but few racial demonstrations taking place in the country in which one or more communists are not involved in one way or another. Rank-and-file Party members and communist supporters throughout the country, elated with and encouraged by the results of the March on Washington, are responding now more than ever to the demands of Party leaders for all "progressive and Left forces, and especially all Communists" to "throw themselves fully into the battles" centering around the "fight for Negro freedom." 78(u)

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Party's Role - Hidden One

In these "lettlies," the communists and their sympathizers usually are few in number in comparison to the total number of participants in any particular incident. The major role being played by the Party is still a support one, with Communist Party affiliations carefully concealed. This is the line with warnings issued repeatedly by Party leaders, who encouraged widespread participation in and support of the March on Washington, for example, but not in such a way that it would create the impression that the Party was trying to take over. 79 80

Aim to Heighten Tension

In short, the Communist Party's primary purpose has been to add fuel to the fire at the local level to keep the racial unrest at fever pitch at the national level, where the Party hopes to derive its greatest benefit through such important channels as Martin Luther King.

At the intermediate level, the Party continues to utilize its other tools of propaganda and agitation to bring as much pressure as possible to bear on the over-all situation. Party newspapers and Party-sponsored publications pour out propaganda aimed at heightening the tensions. Communist-front organizations originate and circulate leaflets, circulars, and petitions, and bombard Congress and the President with letters and telegrams demanding action of one sort or another.

Shift in Tactics Considered

The Party policy to conceal its role in support of racial unrest was a major point of discussion at the Party's National Executive Committee meeting in New York City, October 1-6, 1963. The meeting was dominated by reports and discussions concerning the situation and ways the Party can intensify its role in relation to it. 81 82 83

As a result of the discussions at the meeting, the Nation today is confronted with the prospect of a major shift in communist tactics. The Party visualizes the time as being ripe to accelerate its open work and increase its militancy, not only in regard to the Negro movement but also in regard to the Party's over-all activities.

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Counter Militancy Urged

The Party's National Secretary, Benjamin J. Davis, pointed out that the temper of the Negro people at the present time indicates an angry mood. He said the more militant elements of the Negro movement are emerging in the struggle and are having an impact on the movement. He added that the struggle must go beyond sit-ins and mass demonstrations, and be visualized as civil disobedience on a national scale. He then said the Party should encourage the most advanced proposals within the Negro movement, continue mass activity in connection with it on an intensified plane, and urge the Negro people to continue taking to the streets. Davis concluded that the Party must actively inject itself into the struggle in the South, infiltrate all of the Negro organizations within the Negro movement, and provide the personnel for "some kind of a new left center that would unite the Negro people."⁸⁴

Importance of the "Link"

The Party's leader, Gus Hall, delivered the main report at the meeting and it also constituted a challenging demand for expanded communist action. He observed that there are 20 million Negroes and countless whites involved in the current struggle, and, he said, they represent the most important "link" the communists can seize at this moment in history to advance the cause of communism in this Nation.^{85 86}

This reference to the Negro movement as a "link" the Party must seize has been repeated frequently by Party leaders at recent meetings. It is not a chance term they are using. They are following the dictates of V. L. Lenin who once stressed that "one must be able at each particular moment to find that special link in the chain which one must grasp with all one's might in order to hold the whole chain, and to make lasting preparations for the transition to the next link."⁸⁷

The Party intends to grasp with all its might the link which the Negro movement in general and Martin Luther King in particular represent to make a transition in the Party's role on the national scene.⁸⁸

Period of Growth Envisioned

Gus Hall envisions the forthcoming period as a fertile one conducive to a revitalization and growth of the Communist Party. He sees it as a period in which the Party will launch a recruiting drive and a press drive, as well as other

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in which the Party's organization will be renovated. In this connection, a proposal already has been made to establish new Party training schools as quickly as possible.

Conclusion

In short, the current atmosphere in the Communist Party is marked by a vigorous spirit of enthusiastic optimism and a determination to launch more open, aggressive action on the national scene. As the situation now stands, Martin Luther King is growing in stature daily as the leader among leaders of the Negro movement. Communist Party officials visualize the possibility of creating a situation whereby it could be said that, as the Communist Party goes, so goes Martin Luther King, and so also goes the Negro movement in the United States.

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SOURCE NUMBER

DOCUMENTATION

SUB

Guide to Subversive Organizations, p. 193--

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(1)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

100-8-116-93 encl. p. 2

[REDACTED]

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[REDACTED]

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SOURCE NUMBER

DOCUMENTATION

(b)(1)

- 42 Airtel, Atlanta, re Hunter Pitts O'Dell, 5-16-62 (u)
- 43 100-358916-222; 100-106670-unrec. ser. after 99
- 44 100-358916-222; 100-106670-unrec. ser. after 99
- 45 100-358916-222; 100-106670-unrec. ser. after 99
- 46 The Atlanta Constitution, 7-26-63, p. 1, 100-106670-A
- 47 CC of letter from King to O'Dell, 7-3-63, encl. with letter to Director from AAG, Burke Marshall, 9-20-63, re Hunter Pitts O'Dell (u)
- 48 Ibid.; 100-106670-128 p. 3; 80
- 49 Letter from AAG Burke Marshall, 9-20-63, re Hunter Pitts O'Dell enclosing cc of letter from King to O'Dell (u)
- 50 New York Report, 10-4-63 re Hunter Pitts O'Dell, pp. 7-8; 100-358916-222 (u)

(b)(1)

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SOURCE NUMBER

DOCUMENTATION

[redacted]
[redacted]
[redacted]
[redacted]

(b)(1)

[redacted]
[redacted]
[redacted]
[redacted]

63

Letterhead Memo, NY, 9-11-63, re Martin Luther King, p. 1

64

100-158793-59 p. 4

[redacted]

(b)(7)(c)

[redacted]

[redacted]

(b)(7)(c)

[redacted]

67

Letterhead memo, NY, 9-11-63, p. 22, re Martin Luther King
Ibid p. 2

68

[redacted]

(b)(7)(c)

[redacted]

70

100-106670-178, 208, 100-158790 unrec. ser., blind memo 8-12-63, after 55

71

100-158790-59

[redacted]

(b)(1)

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

75

100-106670-162 p. C

78

100-106670-180, 188

77

100-106670-200

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<u>SOURCE NUMBER</u>	<u>DOCUMENTATION</u>
78	"Peace and Civil Rights," an editorial, <u>Political Affairs</u> , July, 1963, pp. 6-7.
79	Philadelphia Airtel, 8-16-63 100-3-116 unrec. serial
80	100-3-116-79, 87
81	New York Airtel, 10-4-63, re CPUSA-Organization
82	New York Teletype, 10-3-63, re CPUSA, Organization
83	Memo Sullivan to Belmont, 9-27-63, RE CPUSA Negro Question, Communist Infiltration-Racial Matters
84	Memo Baumgardner to Sullivan, 10-7-63, re CPUSA- Organizations
85	New York Teletype, 10-3-63, re CPUSA-Organization
86	CG 5824-S New York Airtel, 10-4-63 re CPUSA- Organization
87	V. I. Lenin, <u>Selected Works</u> , (New York, International Publishers, 1943), Vol. VII, p. 347
88	New York teletype, 10-3-63, re CPUSA-Organization NY 4158-S*
89	New York teletype, 10-3-63, re CPUSA- Organization, NY 4158-S*
90	New York teletype, 10-5-63, re CPUSA- Organization, NY 4154-S*

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Exhibit 3

C.A. 77-0692

OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

AUG - 5 1975

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

Re: Request for Guidance by Director Kelley

ACTION MEMORANDUM

Background

By memorandum [Tab A] dated July 28, 1975, Director Kelley initially refers to three pending Freedom of Information Act suits against the Department in which plaintiffs [the Meeropols, Allen Weinstein and Alvin Goldstein, respectively] seek extensive materials pertaining to the cases of Alger Hiss and Julius and Ethel Rosenberg. The Meeropol suit is also an open F.O.I.A. administrative appeal already considered by Attorney General Levi after receiving your advice, while various other pending administrative appeals and judicial actions seek much of the same information as do these three cases. Director Kelley's specific stated purpose is to focus attention on a problem involving a considerable quantity of records in the Rosenberg file. In view of a letter he has received from David and Ruth Greenglass, requesting that no material pertaining to them be released by the Department, Director Kelley seeks "particular guidance" as to the release of 244 pages which relate to them, the major portion of which consists of interviews with them. A copy of the letter from the Greenglasses is attached [Tab B], as is a copy of a second letter from Mr. Louis Abel, a relatively minor figure in the Rosenberg case [and brother-in-law of David Greenglass], containing a similar request [Tab C]. These letters were transmitted by a letter from Attorney Stanley Tsapis [Tab D], who states that his "clients are extremely concerned over the possibility of any disclosure involving them" [emphasis added] and suggests that "there should be as much resistance [presumably by the Department, in opposition to such disclosure] as can be exerted."

Departmental Positions

After referring to two administrative precedents under the "old" Freedom of Information Act, in which his actions in denying access to reports of interviews with principal witnesses in the Rosenberg case and to Greenglass



data were affirmed by Attorney General Saxbe and Acting Attorney General Bork, respectively, Director Kelley states the position of the Bureau on third party releases as follows:

We prefer to adhere to the policy adopted by us restricting release of information concerning subjects of our files, in this case the Greenglasses and other principals of the Rosenberg case, to only those instances where the subject, or his authorized representative, has consented to release. 1/

I disagree most emphatically with the position of the Bureau and recommend the immediate release of the Greenglass data, subject only to possible other exemptions which there is a compelling reason to assert. Furthermore, I believe -- on the basis of numerous unsatisfactory discussions with personnel of the Bureau's Freedom of Information Section on this very point -- that there is a compelling need for definitive guidance in this area, in order that the heretofore inordinate delays in processing these materials can be avoided in the future. Accordingly, I propose that the guidance furnished on this occasion extend generally to at least all of the principal personages in the Rosenberg and Hiss cases, as well as to the principal matters of evidentiary controversy therein.

Significant Issues

What is the proper "privacy test" to be applied to investigatory records obtained or derived from or pertaining to [regardless of source] the principal personages in cases of historical interest; what is the proper "privacy test" to be applied to the sources of other information contained in investigatory records pertaining to the principal matters of evidentiary controversy in such cases?

1/ In a recent letter to F.O.I. requester Peter Irons, Director Kelley sought to extend this requirement to encompass consent from the heirs of Whittaker Chambers. The same position was previously asserted by Director Kelley on behalf of the heirs of Erich Gimpel, convicted German WWII spy, but was overruled in Attorney General Levi's actions on the appeals of Rudolpho Scognamiglio and David Kahn.

Discussion

Director Kelley correctly summarized the result of the two principal Departmental precedents tending to support the Bureau's position. Both of these decisions were under the "old" Act, however, when exemption 7 protected "investigatory files compiled for law enforcement purposes . . ." [emphasis added]. In each case, the requested records were unquestionably exempt from mandatory release under the Act. The issue on appeal in each instance was whether to direct a discretionary release over the objection of Director Kelley. As of February 19, 1975, the investigatory files exemption was replaced by a new exemption 7 which protects investigatory records, but only if they fall within one of six enumerated categories. For purposes of this discussion, the clause under consideration is 7(C), which exempts from mandatory release those investigatory records compiled for law enforcement purposes the release of which would constitute an unwarranted invasion of personal privacy.

There have been four appeals under the amended Act which, in my opinion, require -- and properly require -- that the general rule desired by Director Kelley be determined to be inapplicable to the principal persons and issues in the kind of cases under discussion. 2/ The four precedents

2/ I have no disagreement with its use as a guideline in ordinary cases, or as to minor sources in these important historical cases. Even in such instances, however, I have serious doubts as to the validity of its use as a rule approximating mechanical or universal application. The effect of such an application is to avoid totally the risk of any invasion of privacy. This goes beyond the permissive scope of the clear language of the Act, which requires the release of a record unless its release would cause an unwarranted invasion of privacy. In my opinion, the Bureau cannot read the word "unwarranted" out of the statute, simply because it may wish that it were not there.

are Scognamiglio, Meeropol I [F.B.I. records], Meeropol II [records of the Office of the United States Attorney for the Southern District of New York] and Kahn. In your memorandum on the Scognamiglio appeal, you stated that:

With a possible exception for any intimate personal information unrelated to their crimes that may be contained in our files, I am of the opinion that there is no privacy interest on behalf of either Gimpel or Colepaugh which is not outweighed by the legitimate interest in this case on the part of historians or even by curiosity on the part of other members of the public.

The letter from Attorney General Levi granted access to the Gimpel file, "notwithstanding possible privacy considerations as to either Mr. Gimpel or his American confederate, William C. Colepaugh." The only exception was to be for "intimate or other purely personal matters" that are "wholly unrelated" to the espionage activities for which they were convicted.

As Acting Attorney General, you applied the same rule of "non-privacy" with reference to the Rosenbergs in Meeropol I. That request extended to records pertaining to the principal participants in the case: Yakolev, Fuchs, Gold, the Greenglasses, Max Elitcher, Oscar Vago and Abraham Brothman, as well as to the witnesses called by the prosecution in the Rosenberg and Sobell cases [the Rosenbergs and Morton Sobell were tried together; in my opinion, the Sobell case is part of the Rosenberg case]. Director Kelley's letter to the Meeropols invoked privacy considerations as to persons other than the Rosenbergs mentioned in the files. The letter which you sent stated that the action of Director Kelley was modified "as to persons other than the Rosenbergs." Your memorandum of advice on Meeropol II was very similar to the above, as was Attorney General Levi's letter to Mr. Perlin.

Although the three precedents discussed above are clearly relevant in determining the appropriate response to the instant request from Director Kelley for guidance, it is the action of Attorney General Levi [on your recommendation] on the appeal of David Kahn that appears to be squarely on point. Mr. Kahn, author of The Codebreakers, sought access

to the records of the post-arrest interrogations of Messrs. Gimpel and Colepaugh by the F.B.I. Access was recommended on the basis that the two convicted spies do not "have, at this time, a general privacy interest sufficient to support withholding of this data under the Freedom of Information Act." Access was granted by Mr. Levi, subject only to the excision of "references to third persons not involved in the espionage operation whose claims to privacy cannot be disregarded and who should be protected by the assertion of 5 U.S.C. 552(b)(7)(C)" [emphasis added].

In essence, Director Kelley's memorandum is an expression of disagreement with the direction that has been taken on the privacy issue in cases of historical interest decided under the amended Freedom of Information Act. It amounts to a request for reconsideration and for authority to apply in these third party situations the Bureau's preferred rule of no release without consent. For reasons which I have stated on a number of occasions, it is my opinion that the current law will not permit such a result. It is my judgment that none of the principal personages in either the Hiss case or the Rosenberg case "have, at this time, a general privacy interest sufficient to support withholding . . . under the Freedom of Information Act" of records obtained or derived from them, or pertaining to them, and within the scope of these two historically important cases.

In preparing to write this memorandum, I spent several days reading public domain records and commentaries pertaining to these cases. Suffice to say that none of these principal participants had any privacy interest at the time. The records of the trials, contemporary newspaper and magazine accounts, the reports of numerous proceedings before various Senate and House Subcommittees, books by Whittaker Chambers, Alger Hiss, Alistair Cooke, etc., effectively accomplished that result beyond any doubt. And, in my judgment, the passage of time has permitted none of these individuals to return to obscurity -- no matter how desperately and understandably they may desire to do so. In the narrow instant context of the requests by David and Ruth Greenglass, and Louis Abel, one need only consult Louis Nizer's book, The Implosion Conspiracy [Doubleday, New York, 1973]. The evidence in the Hiss case is the subject of a lengthy article in the current, August 1975 issue of "Commentary" magazine [the author concludes, unequivocally, that Mr. Hiss was guilty]. In his memorandum, Director Kelley comments: "We realize, of course, the Rosenberg case has received widespread renewed attention and is viewed with a certain public interest; . . ." My own recent experiences have convinced me that that is a considerable understatement.

Who are the persons I consider have no general privacy interest sufficient to withstand a request under the Act? As a minimum, in the Rosenberg case, I would list both of the Rosenbergs; Morton Sobell; the four persons with whom they allegedly [in the indictment] conspired: Harry Gold, David Greenglass, Ruth Greenglass and Anatoli Yakolev [Gold and the Greenglasses testified against the Rosenbergs and Sobell; Yakolev, a Soviet official at the United Nations, returned to Russia and is still technically under indictment]; and the other more important Government witnesses: Max Elitcher, Prof. Walter Koski, Louis Abel, Dorothy Abel [wife of Louis Abel], Dr. George Bernhardt, William Danziger, Elizabeth Bentley, James S. Huggins, Evelyn Cox and Ben Schneider. It appears that corroborative information of considerable import was provided by a couple named Einsohn and by Mrs. Elitcher. The Government's opening statement began with Klaus Fuchs, tried in England and sentenced there to 14 years for his part in this same overall conspiracy aimed at securing the secret of the atomic bomb. Abraham Brothman was Sobell's employer and, if my memory is correct, was also convicted as the result of his activities as a courier for Elizabeth Bentley. 3/

With respect to the two Hiss trials, I reach the same conclusion [no privacy interest adequate to support withholding under the amended Act] as to all of the following Government witnesses: Whittaker Chambers; his wife, Esther Chambers; Nathan Levine; Henry Julian Wadleigh; M. Touloukian, the oriental rug dealer; Dr. Meyer Schapiro; William Rosen; Hede Massing; two Department of State officials, Walter Anderson and Eunice Lincoln; two F.B.I. Agents, Ramos Feehan and Courtland Jones; and Burnetta Catlett. By stipulation, the ownership of the camera that took the pumpkin films was ascribed to Felix Inslerman and material concerning him should be released. The same result should be reached as to the Soviet control agent, Colonel Bykov. Another photographer used by Julian Wadleigh, David Carpenter, could well be "too public to be private"; the same would also be true, in my opinion, for the various persons named as Communists on August 3, 1948, by Whittaker Chambers in his H.U.A.C. testimony, given in public session. Given the nature of the Hiss trials, I also conclude that individuals who furnished information of significance on

3/ I did not encounter the name of Oscar Vago in the course of my reading, although it, too, rings a 25 year old bell.

the principal points of evidentiary controversy should be on the no-privacy list, if the information cannot be released without disclosing their identities. These points include, as a minimum, anything to do with the typewriter, the films or the purloined documents; all data pertaining to the transfer of the car to Rosen via the Cherner Motor Company; the story of the purchase of the oriental rug; and the purchase by Chambers in 1937 of the "other" farm near Westminster, Maryland.

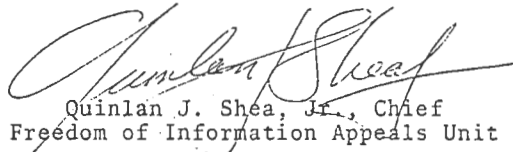
As to all of the foregoing named/described individuals, I recommend that your guidance to the F.B.I. direct that investigatory material obtained or derived from them, or pertaining to them not be withheld on the basis of privacy [or be done only after very careful, particularized consideration]. The files undoubtedly contain much information obtained from other persons. In many of these instances, it may be initially appropriate to delete their names when releasing the information furnished by them. Decisions as to some persons, however, will require careful, deliberate judgments as to whether the release of their identities would constitute unwarranted invasions of their privacy. As a general proposition, the most significant factor would appear to me to be the importance of the material furnished by them.

Lastly, I propose that your guidance include two additional elements. First, a statement that, although the "letter" of the Department's Policy Regarding Investigatory Records of Historical Interest [28 C.F.R. 50.8] may have been largely overtaken by the recent amendments to the Act, the policy set forth therein of encouraging the maximum possible discretionary release of records in these historical interest cases remains the policy of the Department today. Second, to bring to Director Kelley's attention the standard asserted by Attorney General Levi on the question of whether to assert exemptions [other than exemption 1] in this area. In his recent letter concerning the pumpkin films [Tab E], he stated that such would be asserted only if there is a "compelling reason" to do so. In my opinion, that is the proper standard to apply throughout these two cases, save for properly classified materials that cannot be declassified or sanitized even after this long period of time.

Recommendation

I recommend that you send the attached proposed memorandum to Director Kelley. I have also attached a

proposed memorandum to Assistant Attorney General Lee,
which advises him of the Department's position on this
issue.



Quinlan J. Shea, Jr., Chief
Freedom of Information Appeals Unit



Exhibit 4 . . . C.A. 77-0692 May 5, 1977

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

LETTER TO HEADS OF ALL FEDERAL DEPARTMENTS AND AGENCIES

Re: Freedom of Information Act

I am writing in a matter of great mutual concern to seek your cooperation.

Freedom of Information Act litigation has increased in recent years to the point where there are over 600 cases now pending in federal courts. The actual cases represent only the "tip of the iceberg" and reflect a much larger volume of administrative disputes over access to documents. I am convinced that we should jointly seek to reduce these disputes through concerted action to impress upon all levels of government the requirements, and the spirit, of the Freedom of Information Act. The government should not withhold documents unless it is important to the public interest to do so, even if there is some arguable legal basis for the withholding. In order to implement this view, the Justice Department will defend Freedom of Information Act suits only when disclosure is demonstrably harmful, even if the documents technically fall within the exemptions in the Act. Let me assure you that we will certainly counsel and consult with your personnel in making the decision whether to defend. To perform our job adequately, however, we need full access to documents that you desire to withhold, as well as the earliest possible response to our information requests. In the past, we have often filed answers in court without having an adequate exchange with the agencies over the reasons and necessity for the withholding. I hope that this will not occur in the future.

In addition to setting these guidelines, I have requested Barbara Allen Babcock, Assistant Attorney General for the Civil Division, to conduct a review of all pending Freedom of Information Act litigation being handled by the Division. One result of that review may be to determine that litigation against your agency should no longer be continued and that information previously withheld should be released. In that event, I request that you ensure that your personnel work cooperatively with the Civil Division to bring the litigation to an end.

Please refer to 28 CFR 50.9 and accompanying March 9, 1976 memorandum from the Deputy Attorney General. These documents remain in effect, but the following new and additional elements are hereby prescribed:

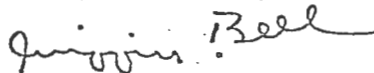
In determining whether a suit against an agency under the Act challenging its denial of access to requested records merits defense, consideration shall be given to four criteria:

- (a) Whether the agency's denial seems to have a substantial legal basis,
- (b) Whether defense of the agency's denial involves an acceptable risk of adverse impact on other agencies,
- (c) Whether there is a sufficient prospect of actual harm to legitimate public or private interests if access to the requested records were to be granted to justify the defense of the suit, and
- (d) Whether there is sufficient information about the controversy to support a reasonable judgment that the agency's denial merits defense under the three preceding criteria.

The criteria set forth above shall be considered both by the Freedom of Information Committee and by the litigating divisions. The Committee shall, so far as practical, employ such criteria in its consultations with agencies prior to litigation and in its review of complaints thereafter. The litigating divisions shall promptly and independently consider these factors as to each suit filed.

Together I hope that we can enhance the spirit, appearance and reality of open government.

Yours sincerely,



Griffin B. Bell
Attorney General

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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: :
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JAMES H. LESAR, : :
: :
Plaintiff, : :
: :
v. : : Civil Action No. 77-0692
: :
: :
U.S. DEPARTMENT OF JUSTICE, : :
: :
Defendant : :
: :
.....

AFFIDAVIT OF JAMES H. LESAR PURSUANT TO RULE
56(f) OF THE FEDERAL RULES OF CIVIL PROCEDURE

I, James H. Lesar, first having been duly sworn, depose and say as follows:

1. I am the pro se plaintiff in the above entitled cause of action.
2. In order to effectively oppose defendant's motion for summary judgment, it is essential that I be allowed to undertake discovery to establish facts which I cannot conclusively or satisfactorily demonstrate absent such discovery.
3. For example, with respect to defendant's Exemption 1 claim, I need to know just how disclosure of the purportedly classified OPR and Civil Rights Division materials might damage the national security or foreign relations of the United States. Would disclosure damage our foreign relations with a particular country? Would "disclosure" in fact disclose anything of importance not already known? Conversely, have facts already publicly known been withheld under a claim that they are classified? Has the Department of Justice withheld materials that were made public by the Church Committee? Was any of the purportedly classified information leaked to the press or others as part of the FBI's

COINTELPRO operations? Were the classifying officers aware of, and did they consult, the work of the Church Committee before making a determination that this information was to be classified? Was Dr. King ever charged with being a spy?

4. The Murphy Report, a copy of which is attached to the Supplemental Affidavit of James P. Turner, was originally classified in toto. Since much of it has now been disclosed, it seems evident that there never was any basis for classifying the parts which are now public. In order to assess the competence and credibility of those who classified the Murphy Report (and the other materials as well), I need to engage in discovery to find out what criteria were employed in reaching these unjustifiable classification determinations..

5. Much of the information withheld by the Defendant is purportedly exempt pursuant to Exemptions 7(C) or 7(D). The government's reliance on these provisions is notoriously unreliable. As an example, I attach a copy of a document provided to my client, Mr. Harold Weisberg, by the Civil Rights Division of the Department of Justice. I was able to fill in all but one of the 30 excisions in this four-page document off of the top of my head because it was all public information. Yet the Department of Justice deleted it under Exemption 7(C) and 7(D).

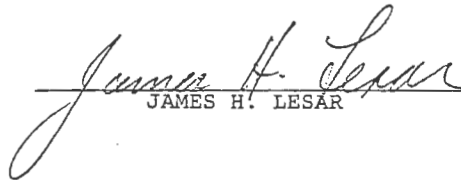
6. With respect to Exemption 7(D), I need to engage in discovery to ascertain whether the government maintains that the FBI's COINTELPRO operation against Dr. King and the SCLC was a "lawful national security intelligence investigation," and to establish whether information has been withheld under Exemption 7(D) on the premise that it was. As with Exemption 1, I need to ascertain whether, as ^Ithink apparent, information has been withheld under this provision even though it is already publicly known. I wish to ascertain whether information which has appeared in the press

or on radio or T.V. has been withheld under this provision. I also need to establish through discovery the facts upon which defendant contends that the information allegedly protected by exemption 7(D) was furnished as the result of an express or implied agreement of confidentiality.

7. With respect to Exemption 7(E), many FBI investigative techniques and procedures are already publicly known. This is particularly true with respect to those employed by the FBI in its COINTELPRO operations. I believe that this exemption may have been unjustifiably utilized in this case to hide the details of illegal activities by FBI agents by applying this claim of exemption to techniques and procedures which are either already publicly known or supposed to have been abandoned. Discovery is essential if I am to establish this.

8. It may also be necessary to take discovery in order to clear up a question as to whether what is being withheld as Memphis Police Department records also includes notes which Mr. James F. Walker or other members of the Justice Department Task Force may have taken while reviewing these records. This question arises because Mr. Walker's affidavit states that he went to Memphis on October 18, 1976 for the purpose of reviewing and securing copies of relevant Memphis Police Department records. In reviewing other records, the Task Force normally took notes on matters of interest. These notes constitute the bulk of the Appendix C materials which have been provided to date. I have not been provided with any notes on the Memphis Police Department records. Inasmuch as Mr. Walker states that he did not serve a subpoena on Mr. Stanton until October 21, 1976, three days after he went to Memphis, he may have spent the intervening time reviewing and making notes on the Memphis Police Department records. Appendix

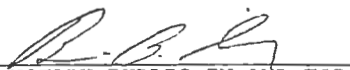
C to the Shaheen Report contains five volumes which have been described by defendant as containing Memphis Police Department documents. Yet the subpoena which Mr. Walker served on Mr. Stanton seems to apply to only some 400 to 500 pages of Memphis Police Department records. This is far less than would normally be contained in five volumes. Moreover, it is apparent that Mr. Walker must have made some notes on the Memphis Police Department records, if only to be able to specify which records he wanted to subpoena. Because any notes members of the Task Force made on Memphis Police Department records may arguably have a different legal status than the PD records themselves, I need to undertake discovery on this question, too.


JAMES H. LESAR

WASHINGTON, D.C.

Subscribed and sworn to before me this ^{23rd}~~22nd~~ day of May,
1978.

My commission expires June 14 1979.


NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : File

DATE: August 26, 1971

EG:sbt

FROM : Monica Gallagher
Deputy Chief, Criminal Section
Civil Rights Division

DI: 44-72-66

SUBJECT: Wayne Chastain, Jr.

On August 24, 1971, Mr. Queen and I met with Wayne Chastain, Jr., a reporter with the Memphis Press Scimitar, home address 810 Washington, Apartment 502, Memphis, Tennessee, telephone 901-525-8158; office telephone 526-2141. Mr. Chastain requested the meeting to furnish the following information, which he advised has mostly been previously furnished to the FBI in Memphis in 1969. At the conclusion of the interview I advised Mr. Chastain that we would carefully consider the information he furnished, together with other information available to us, and determine what if any further action would be appropriate.

A. Re *Jack Youngblood aka Tony*
Bersuitos is *Youngblood* according to Chastain is from the area of Alleena, Arkansas and has reportedly been engaged in illegal and/or questionable activities such as gunrunning. He is about 40 years old, has dark hair and eyes, and speaks some Spanish. He is a man of some wealth, drives a Cadillac, and likes "high living." He was a college roommate of WALTER RA FORD, a Memphis attorney.

Chastain is persuaded that there is considerable evidence that *Youngblood* was in Memphis April 3-5, 1968, and present in "Jim's Grill" opposite the

Lorraine Motel on the afternoon of April 4 shortly before the assassination. If this is true, Chastain believes further investigation of *Youngblood* is warranted since there is no apparent logical explanation for his presence in that neighborhood at that time.

The evidence that *Youngblood* was there is as follows:

1. Lloyd Jewels (Giles?), owner of Jim's Grill, remembers (according to Chastain who interviewed him) that on the day of the assassination at about 4:30 p.m. a man entered Jim's Grill and ordered sausage and eggs. This was sufficiently unusual as to be noteworthy because at that hour of the day most people come to Jim's to drink and the cooking grill is closed down. Also, this man was not of the working class "type" that frequents Jim's Grill. During the time the man was in Jim's he went three times to the telephone but never made a call. He left about 5:00 p.m.

On later being interviewed by the police about the presence of any suspicious individuals, Jewels described the sausage-and eggs man and was allegedly told to call the police if he returned. In fact the man returned for breakfast the next day (4/5) carrying a suitcase. Jewels called the police who picked him up as he left the cafe. (He again had ordered sausage and eggs!). Jewels was never asked by the police to identify this man. However, he later heard that the man was released by the police a short time after he was picked up, although other individuals were being held as suspects in the King matter.

Chastain said he exhibited to Jewels a "mug shot" of Youngblood and that Jewels positively identified him as the sausage-and-eggs man.

2. A former waitress at Jin's Grill, identity unknown to Chastain but allegedly known to

also remembers the man and could identify a photograph of Youngblood as the individual involved.

3. Walter Buford, once said that Youngblood called him from Memphis the day before the King slaying, but according to Chastain he now denies that he can fix the date accurately. In approximately May 1968, Buford told Chastain that the last time Youngblood had been in Memphis was "about the time of the King assassination." When the question of Youngblood as a possible suspect was raised, Buford said, "Jack" is more liberal on the racial issue than I am."

B. Rei Buavitas

A Memphis attorney named Russell R. Thompson told Chastain that he had been consulted by an individual who gave his name as Buavitas, saying that was an alias. Buavitas had allegedly been arrested in connection with the King slaying and released. He thought he would ultimately be charged and wanted Thompson to represent him. He took Thompson's telephone number and departed. Chastain exhibited to Thompson several photographs of Youngblood. With respect to the mug shot, Thompson said that was not the man; however, with respect to a newspaper photograph, Thompson could not be sure. Thompson allegedly told Chastain that he inferred from Buavitas's speech that he spoke Spanish in addition to English.

cuit to remand Ray's habeas corpus petition to the district court for "a full-scale judicial inquiry" into Ray's allegations. I was deeply involved in the preparations for the evidentiary hearing which ensued, including direct participation in some of the sweeping discovery which Ray had obtained by court order. I was also present at the counsel table with Ray's attorneys during the two-week evidentiary hearing which was held in October, 1974.

4. Over the years I have probably interviewed James Earl Ray at greater length and corresponded with him more than any other person.

5. I have read all available literature on the assassination of Dr. King and the James Earl Ray case. My extensive files on this subject include thousands of pages of court records, countless newspaper and magazine articles, and more than 50,000 pages of government records. They also include voluminous correspondence and my own interviews of witnesses.

6. As a result of Freedom of Information Act lawsuits, principally Weisberg v. Department of Justice, Civil Action No. 75-1996, I have obtained in excess of 50,000 pages of FBI records pertaining to the assassination of Dr. Martin Luther King, Jr., including what is purportedly the entire FBI Headquarters' MURKIN file. I have also obtained voluminous records on related subjects, such as the Memphis sanitation workers' strike (which caused Dr. King to go to Memphis in the first place) and The Invaders, a group of young black radicals, heavily infiltrated by police and FBI informants and agents provocateurs, which was responsible for the outbreak of violence which led Dr. King to return to Memphis where he was killed on April 4, 1968.

7. In preparation for a book on the James Earl Ray case and the campaign to harass, intimidate, and discredit Dr. King, I have

read and taken notes on these more than 50,000 pages of FBI documents on the assassination of Dr. King. I have also read and made notes on the records released as a result of this lawsuit by Mr. Lesar.

7. In addition to this, I am in the process of obtaining more records on Dr. King's assassination from other government agencies. I also have a pending request, on which compliance is long overdue, for the FBI's COINTELPRO records on Dr. King and his organization, the Southern Christian Leadership Conference (SCLC).

8. The work I do on the King and Kennedy assassinations is not done in pursuit of a detective mystery story, a whodunit. Essentially it is a study of the function, malfunction, and non-function of the basic institutions of our society in response to these crises.

9. I have reached only a few conclusions as the result of my work. The most fundamental is that our basic institutions--the law enforcement agencies, the courts, the press--have all failed.

10. Each of these crimes is unsolved. The available evidence shows that Lee Harvey Oswald did not shoot President Kennedy. The hard physical evidence also proves that more than one person fired on the President.

11. With respect to the assassination of Dr. King, the evidence shows that James Earl Ray did not shoot him and that the murder could not have been committed in the manner alleged by the prosecution.

12. I have made arrangements to have all my records pertaining to the assassinations of President Kennedy and Dr. Martin Luther King, Jr., as well as some records on other subjects, made part of an archive which will be deposited with the University of Wisconsin--Stevens Point, where they will be made available to

students, scholars, and the general public. I have, in fact, already deposited some of my records with the University of Wisconsin--Stevens Point.

13. Although this lawsuit was filed in Mr. Lesar's name, he requested that the records disclosed as a result be mailed directly to me. When I have received these records, my wife has made two copies, one for my personal use and another for Mr. Lesar. As is my policy with all records which I obtain from the government on these subjects, I preserve the "original" I get exactly as I receive it. No notes or markings are made on the originals.

14. I have not charged Mr. Lesar for the copies of the records I have provided him. This includes a complete copy of the entire FBI Headquarters' MURKIN file, which amounts to approximately 20,000 pages.

15. I have read the motion for summary judgment summary judgment made by the defendant in the above-entitled case and the affidavits submitted in support of it.

16. Several volumes of Appendix C to the Shaheen Report are said to be duplicate copies of Memphis Police Department records pertaining to the local police investigation of the King assassination. Defendant asserts that these local law enforcement records were furnished to the Department of Justice under circumstances from which an assurance of confidentiality could be reasonably inferred. (Memorandum of Points and Authorities, p. 18) Defendant further asserts that:

Thus, it can be seen that the Memphis Police Department (through its cautious custodial intermediary in the District Attorney General's Office) effectively occupies the role of a "confidential source" to the Department of Justice in this uniquely anomalous situation. (Id., p. 19)

The footnote to this quoted passage indicates that what is "uniquely anomalous" about this, in defendant's view, is that it may

"the first situation ever in which a component of the Department of Justice (or perhaps any federal agency) has taken custody and control of local law enforcement agency records under circumstances leading to such FOIA susceptibility." (Defendant's Memorandum, p. 19, n. 23)

17. It is not at all unusual, particularly in historically important cases such as the assassination of Dr. King, for federal agencies to come into possession of the records of local law enforcement agencies. Nor does past practice suggest in the least that such records are obtained on the basis of confidentiality.

18. For example, several thousand of pages local law enforcement records were furnished the Warren Commission by the Attorney General of the State of Texas. These records were compiled during the investigation into President Kennedy's assassination made by the Texas Court of Inquiry under the direction of Leon Jaworski. The Warren Commission published some of these Texas police records. The originals are on deposit at a state archive in Austin, Texas, where they are readily available to the public. All of these records are on microfilm at the Library of Congress and may be obtained by the public. I personally have a complete microfilm of the Library of Congress copy of these records. The copies which were given the Warren Commission are also available at the National Archives. I have myself published some of these local law enforcement records in my books. For example, in Whitewash II I published the February 17, 1964 report of two detectives of the Criminal Intelligence Section, Special Service Bureau, Dallas Police Department, on their interview of Teofil Meller, who told them that he had checked Lee Harvey Oswald out with the FBI "and they told him that OSWALD was all right." (See Attachment 3) I obtained this Dallas Police Department record from the National Archives.

19. I have also obtained many records of local law enforcement agencies pertaining to the assassination of Dr. King and related matters from the Department of Justice under the Freedom of Information Act. For example, while James Earl Ray was incarcerated in Memphis awaiting trial, his mail was intercepted and taken to the Office of the District Attorney General of Shelby County where xerox copies were made. Even a letter which Ray sent to Trial Judge Preston Battle by registered mail/^{was}intercepted and xeroxed for the DA before it was delivered to Judge Battle. The intercepts of Ray's mail were made available to the FBI's Memphis Field Office in copies and verbally. I have obtained copies of these records under the Freedom of Information Act. (See Attachments 4 and 5) Although they were furnished by the Sheriff of Shelby County, the FBI made no claim of confidentiality.

20. Other investigations by the Memphis police were made available to the FBI. The police phoned the FBI in Memphis to make verbal reports of their investigations. The Memphis Field Office then teletyped and telephoned FBI Headquarters in Washington immediately. Additional details on the Memphis police investigations were often added later on in the FBI's LHMs (Letterhead Memorandums). I have obtained these records under the Freedom of Information Act.

21. Almost any information picked up by local law enforcement agencies was passed on to the FBI in this fashion. The FBI has not sought to restrict my access to it on the grounds that it was provided by a confidential source. (See Attachment 6, for example)

22. James Earl Ray's trial defense, if it can be called such, was financed by author William Bradford Huie, who bought the rights to the James Earl Ray story. However, on February 7, 1969, Huie appeared before the Shelby County Grand Jury to testify

against Ray. Four days later the Shelby County District Attorney General, then Phil Canale, notified Ray's lawyer, Percy Foreman, whose fee was being paid by Huie, that Huie would be called as a witness for the prosecution at Ray's trial. Immediately thereafter, Foreman began his efforts to coerce Ray into pleading guilty. At Ray's evidentiary hearing in October, 1974, the State introduced Huie's Grand Jury testimony into evidence. Some of the substance of Huie's Grand Jury testimony is also recounted in a February 5, 1969 memorandum which Assistant District Attorney General Robert K. Dwyer made of a conversation which he and other prosecutors had with Huie on February 4, 1969. This local law enforcement memorandum was made available to the FBI and I obtained it under the Freedom of Information Act. (See Attachment 7) The FBI made no claim that it was exempt from disclosure because it had been received from a confidential source.

23. The Memphis Police Department gave the FBI many records on its investigation of the King murder. For example, Memphis authorities provided the FBI with photographs taken at Dr. King's autopsy and at the scene of the crime. In fact, the FBI purportedly did not take its own crime scene photographs until November, 1968, some seven months after Dr. King's assassination. As long ago as 1970, I obtained a Memphis Police Department photograph of the King assassination crime scene as the result of a Freedom of Information Act lawsuit, Weisberg v. Department of Justice, et al. Civil Action No. 718-70. More recently, in Weisberg v. Department of Justice, Civil Action No. 75-1996, I have obtained some forty more photographs which the FBI got from a local law enforcement agency in Memphis.

24. Under the Freedom of Information Act I have obtained mug shots from a number of different police departments which had made them available to the FBI. No claim of confidentiality was made with respect to such records.

25. I have also obtained hundreds of Memphis Police Department files on The Invaders and the Memphis sanitation workers' strike. The documents given me on these subjects include the reports of criminal informants, among others. I obtained these records from the FBI as the result of a Freedom of Information Act lawsuit.

COPY
CRIMINALS

26. The Memphis Police Department engaged in a massive domestic intelligence operation. Memphis police operatives regularly covered political meetings. The Memphis police even had informers inside the Memphis City Council. The political intelligence records of the Memphis police were given to the FBI and distributed to military intelligence agencies as far away as Miami. These political files of the Memphis police included informant reports on all kinds of activities, religious, draft evasion, criminal, prostitution, and so forth. They have not been withheld from me under any claim that they are confidential because they were provided by a local law enforcement agency. I have obtained copies of them from the FBI as the result of a Freedom of Information Act lawsuit.

27. Relying on an affidavit by James Walker, a member of the Department of Justice Task Force which produced the Shaheen Report, defendant asserts that Shelby County District Attorney Hugh Stanton, Jr., at first refused to provide the Task Force with duplicate copies of the duplicate copies of Memphis Police Department records in his possession "because of the nature of these records" but ultimately did furnish them when compelled to do so by a grand jury subpoena. (Defendant's Memorandum, p. 18)

28. The affidavit of Michael E. Shaheen, Jr. filed in this case addresses the denial of access to these Memphis Police Department records:

These records were made available to the Task Force by the Shelby County Attorney

General's Office pursuant to subpoena. When the Office of Professional Responsibility received Mr. Lesar's request for these records an attorney in my office called the Shelby County Attorney General's Office and inquired whether there was any objection to the release of these records to Mr. Lesar. The Shelby County Attorney General refused to consent to the release of the records to Mr. Lesar. The basis for that denial is that to release Memphis Police Department records after being denied permission to do so could seriously impair future cooperation between the Memphis Police Department and the FBI and could also be expected to diminish the ability of the Department of Justice to acquire similar records from other state and local law enforcement agencies in the future. (Shaheen Affidavit, ¶16.5)

29. Although the above passage from Mr. Shaheen's affidavit purports to give the Department's reasons for denying Mr. Lesar access to these records, it omits whatever reason Mr. Stanton may have given for his position.

30. The real reason for denying Mr. Lesar access to the Memphis Police Department records is that their disclosure will further discredit the official version of Dr. King's assassination and reveal a succession of coverups, both state and federal, to prevent the truth about the assassination and the James Earl Ray case from coming out.

31. Mr. Stanton is well aware of this. On December 18, 1968, Judge Preston Battle appointed the Shelby County Public Defender, Mr. Hugh Stanton, Sr., to act as co-counsel for James Earl Ray, purportedly to investigate the King murder and otherwise assist Mr. Percy Foreman, Ray's attorney. Mr. Hugh Stanton, Jr. was the Assistant Public Defender in charge of the actual investigation. After doing absolutely nothing for the first forty days after the Public Defender was appointed co-counsel for Ray, Mr. Stanton finally began an investigation of the King murder at the end of January, 1969. The Public Defender's investigation proceeded at

snail's pace, interviewing at most two or three witnesses a day. Yet even this minimal investigation produced information which contradicted the State's version of the crime and tended to exculpate James Earl Ray.

32. The Memphis Police Department records will undoubtedly corroborate what the Public Defender's investigation indicated. At a minimum, the Memphis Police Department records should provide evidence that: 1) the shot which killed Dr. King did not come from the bathroom window as alleged by the State of Tennessee; 2) there were two white Mustangs at the scene of the crime shortly before Dr. King was murdered, but one left the scene before he was shot; 3) the alleged murder weapon was planted in the doorway to Canipe's Amusement Center before Dr. King was shot; and 4) the State's only alleged eyewitness, Charles Quitman Stephens, was so drunk fifteen minutes before King was shot he could not get out of bed. The Memphis Police Department records may also help to establish that James Earl Ray was not at the scene of the crime when Dr. King was murdered.

33. It is for these and similar reasons, not "confidentiality," that the Memphis Police Department records are being withheld. The FBI records which I have obtained in Civil Action No. 75-1996 already have established that the prosecution misrepresented facts at James Earl Ray's guilty plea hearing. For example, the prosecution told the court that at a trial an FBI agent would have testified that he had made a microscopic comparison of a dent in the bathroom windowsill and the alleged murder weapon and concluded that "the microscopic evidence in this dent was consistent in all ways with the same microscopic marks as appear on the barrel of this rifle." Subsequently, at a slide lecture which he gave to the Tennessee Bar Association, Shelby County District Attorney General Phil M. Canale asserted:

The FBI laboratory personnel would have testified in a trial that this identification mark on this windowsill had the same machine markings as the underpart of the barrel of the rifle and would have testified that those machine marks on the windowsill were caused by the recoil of the rifle barrel when the shot was fired.

These representations were false, as is shown by the attached FBI Laboratory report which I obtained under the Freedom of Information Act. (See Attachment 8) Not only did the FBI examination not link the rifle to the windowsill by means of microscopic markings present on both, but the FBI lab report also stated that "No gunpowder or gunpowder residues were found on the [windowsill]" from which the shot was allegedly fired.

34. Mr. Stanton has a history of withholding evidentiary materials on the Ray case. In October, 1974, when Mr. Lesar and I sought to implement Ray's discovery order on the Shelby County District Attorney General, we met personally with Mr. Stanton to inform him that discovery materials were being withheld from us. We got an extremely hostile reception from Mr. Stanton. Subsequently, when we proved in court that files of the District Attorney General's Office existed which had not been provided us, Mr. Stanton produced them. The records he had withheld were important documents.

35. As a general proposition, it is not true that police records are kept confidential. Much information in such records is customarily leaked to the press; that which is damaging or embarrassing to the prosecution is withheld. This is particularly true with respect to the James Earl Ray case. The newspapers have carried voluminous information on the James Earl Ray case which could only have come from state and federal records compiled during the investigation of Dr. King's murder.

36. In fact, both the FBI and the Shelby County District Attorney have a history of deliberately seeking to propagandize

the public by providing sycophantic writers with selected information for their files. For example, in August, 1968, three months before Ray's trial was scheduled to begin, the Reader's Digest ran an article by Jeremiah O'Leary which was highly prejudicial to James Earl Ray and which contained information which could only have come from access to information in FBI files. This was so blatantly obvious that James Earl Ray wrote a letter to Trial Judge Preston Battle protesting it, stating: "I am sure you would agree that this article could not have been written without the assistance of someone in the Justice Dept." (See Attachment 9)

37. The moment that James Earl Ray entered a plea of guilty, the FBI began considering cooperation with friendly book writers in order to counter criticisms. (See Attachments 10, 11, 12) At the same time, the FBI hierarchy directed that there be no response to my information requests. (Attachment 13)

38. Tennessee officials followed the same policy. In response to a letter I wrote Shelby County DA Phil Canale on March 16, 1969, his administrative assistant declared that: "None of the evidence not in the transcript [of the guilty plea hearing] will be available to anyone." (Attachment 14) Notwithstanding this declaration, author Gerald Frank, described in FBI files as being friendly to the Bureau, personally told me that he had some 40 meetings with Canale and his staff. Other writers apparently gained access to FBI files through Canale's office. (See Attachment 15, a letter from George McMillan to John Ray, brother of James Earl Ray)

37. Defendant's Memorandum states, at page 10, that the symbol numbers which have been deleted pursuant to Exemption 2 have "no substantive significance" and that "they can hardly be characterized as the subject of a legitimate or genuine public in-

terest" None of this is true.

38. Although disclosure of informant symbol numbers does not reveal the identity of the informants and thus does not jeopardize them, it can provide important substantive information. Disclosure of informant symbol numbers would give an idea of how many informants were used. This provides a means of assessing the extent of the FBI's coverage. Even repetition of a symbol number can be important. It may, for example, show that an agent provocateur is heating up a situation. Disclosure of the informant symbol numbers makes it possible to evaluate the accuracy and prejudice of a given informant without disclosing his identity. This in turn makes it possible to evaluate the accuracy and prejudice of the review conducted by the Department of Justice Task Force headed by Mr. Shaheen. Contrary to the assertion in defendant's memorandum that the informant symbol numbers do not bear "any substantive relation to the content of the document upon which they appear," these symbol numbers can be content, as where they show that the informant was not merely an informant but an agent provocateur who precipitated violence or dissension through deception, fraud, provocative communications or the other acts typical of a COINTELPRO agent. In cases such as this, the symbol numbers provide a means of evaluating the content and significance of events and information. Obviously, if the informant represented by a particular symbol number provides information known to be false on any occasion, this means that all information provided by that informant must be viewed as suspect unless more reliably confirmed. In such cases as this, content cannot be evaluated apart from the informant. There is, therefore, a legitimate public interest in disclosing these informant symbol numbers.

39. There is a profound public interest in disclosure of the records which Mr. Lesar seeks in this lawsuit. The Martin

Luther King/James Earl Ray case has been the subject of several books. There have been countless news reports, articles, and discussions of this subject in newspapers and magazines, as well as on radio and T.V. The Ray case has been litigated in a number of different courts over the past ten years. The FBI's investigation of Dr. King's murder has been the subject of several "reviews" by the Department of Justice. The most recent of these, the Justice Department Task Force headed by Michael Shaheen of the Office of Professional Responsibility, reportedly cost the taxpayers \$200,000. The House Select Committee on Assassinations is presently spending unprecedented millions of dollars on its probe of the King assassination. In view of these facts, it is obvious that any claim that materials on the King assassination are exempt from disclosure must be weighed against the overriding interest of the public in full disclosure.

40. The public interest in the fullest possible disclosure of the FBI's COINTELPRO operations against Dr. King is also manifest. The FBI's campaign to harass, intimidate, and ruin Dr. King is a matter of grave public concern, as is evidenced by the fact that the Church Committee held hearings and issued a report on it.

41. Many of the records released as a result of this lawsuit have extensive excisions pursuant to Exemption 7(C) or 7(D). My extensive experience under the Freedom of Information Act shows that such excisions are almost always unwarranted. Generally the information withheld under 7(C) and 7(D) is already publicly known. It is apparent that that is also true in this case.

42. There are important public benefits to disclosure of information which the Justice Department customarily excises as 7(C) or 7(D) material. Often disclosure of such material will eliminate confusion and unwarranted inferences. In this case it will undoubtedly help to evaluate the work of the Justice Department Task Force and its report. For example, some of the informa-

tion used against James Earl Ray in the Shaheen report undoubtedly came from Raymond Curtis, a prison inmate, even though the Shaheen report never mentions him by name. Although the Shaheen Report relies on statements by Curtis to reach its conclusions, it ignores the FBI reports which show that Curtis was a pathological liar trying to cash in on the assassination to make a fast buck. Some of the OPR documents released to Mr. Lesar excise Curtis' name, while others do not. Disclosure of Curtis' as the source of information will assist the public in evaluating the accuracy and honesty of the Justice Department Task Force in relying on statements by Curtis for its conclusions.

43. Much material is excised from the materials obtained by Mr. Lesar on grounds that it is exempt under 5 U.S.C. 552(b) (1). This claim is obviously based on Hoover's paranoid suspicions that Dr. King and his organization, the SCLC, were under the influence or control of communists. There never was any national security basis for Hoover's suspicions. Assistant FBI Director William Sullivan, an authority on the communist movement, told Hoover that there was no communist control of Dr. King or the SCLC. The Church Committee found that Sullivan was right. Despite massive wiretapping and surveillance, Hoover never obtained evidence to support his suspicions. Because Hoover had no evidence to support his beliefs, Attorney General Ramsey Clark refused to authorize a continuation of the surveillance on Dr. King. What the defendant characterizes as "national security informants" are in fact not national security informants but political operatives engaged in COINTELPRO operations.

44. Over the course of many years I have obtained many records which were initially withheld from me on grounds of "national security". Where I have obtained the records which were originally withheld from me on this grounds, there has not been a

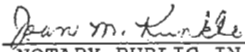
single instance where the claim to the exemption was justified. In all cases the information withheld was embarrassing to government officials.

45. It is apparent that the claim of national security in this case has no relationship to damage to the national defense or foreign relations of the United States sufficient to qualify for classification, particularly at this date ten years and more after the time of relevant events. It is also apparent that these claims of national security serve to suppress information about the FBI's COINTELPRO operations against Dr. King and his organization that would further embarrass the FBI if released to the public.


HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Subscribed and sworn to before me this 22nd day of May, 1978.


NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND
Jean M. Kunkle

My commission expires July 1, 1978 _____.

MARCH 24

FRAME-UP: The Martin Luther King/James Earl Ray Case Containing Suppressed Evidence. Postscript by James Earl Ray. Harold Weisberg. Outerbridge (Dutton, dist.), \$10

Weisberg sprang into national prominence with his book "Whitewash," about the Warren Report. Here, in massive detail, he describes his investigations into what he calls the "framing" of James Earl Ray as the murderer of Martin Luther King in 1968. It is an extraordinarily gripping book. Weisberg attempts to get at the actual evidence that would have, he says, been presented and tested by cross-examination—with results unfavorable to the prosecution—had there been what he defines as a full-scale trial of Ray instead of the "minitrial" that took place March 10, 1969. He contends that Ray did not shoot King, but was the decoy for the actual criminals.

This review can barely suggest the detailed number of Weisberg's charges, speculations, freshly documented evidence and revelations about the King murder. In two areas he is pure TNT: his attack on Ray's lawyer, Percy Foreman, and Bradford Huie as "scavengers" and his sensational head-on assault on J. Edgar Hoover, the FBI and the government itself for what he claims was suppressing of official evidence indicating Ray was not alone in the King assassination. Crank or supersleuth, Weisberg, for all his turgid writing has brought forth a blistering book.

FRAME-UP:
The Martin Luther King/
James Earl Ray Case

by Harold Weisberg
Outerbridge & Dienstfrey/Dutton,
518 pp., \$10

Reviewed by Fred J. Cook

■ On March 10, 1969, in a Memphis courtroom, the curtain rose on one of the most brazen travesties of justice ever to disgrace America. James Earl Ray, the accused killer of Dr. Martin Luther King, Jr., was to go on trial. But there was no trial. There was instead a deal between judge, prosecutor, and defense attorney. Ray would plead guilty in exchange for a life sentence, and the court would return the verdict so much desired by the American Establishment: Ray had acted alone.

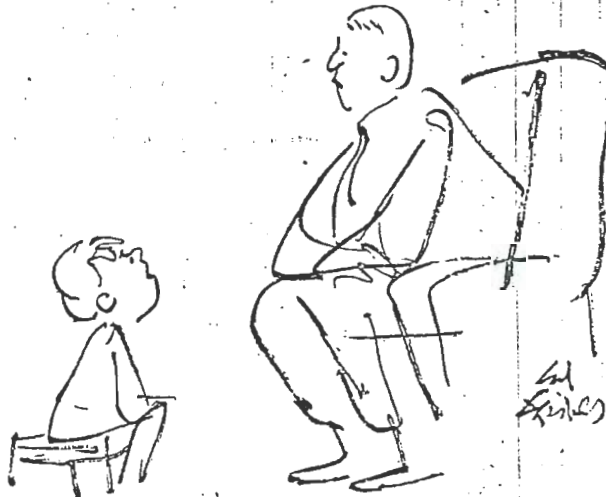
The drama ran as smoothly as a well-plotted Hollywood film—up to a point. Then James Earl Ray spoke. He did not agree, he said, with Attorney General Ramsey Clark and FBI Director J. Edgar Hoover, who had been insisting there was no conspiracy. ~~Here~~ was the man who had to know, and, at some risk to himself, he was telling the court that the script was phony. Defense Attorney Percy Foreman, who had had to browbeat his unwilling client into copping a plea instead of standing trial, leaped into the breach. It was not necessary, he said, for Ray to accept everything; all that mattered

was that he was pleading guilty to the crime. Was he? the judge asked. Yes, Ray said, and the juggernaut of official machinery rolled over his feeble but courageous protest.

Harold Weisberg, a onetime government investigator who has devoted himself to a pursuit of the ignored or suppressed facts about political assassinations, has now turned to the case of James Earl Ray in the book he calls *Frame-Up*. He does not doubt that Ray was implicated in the King assassination, but his thesis is that Ray filled the same role Lee Harvey Oswald did in the assassination of President John F. Kennedy in Dallas. In Weisberg's view, Ray, like Oswald, was not the killer; he was the decoy, the patsy, the man meant to be caught.

Weisberg shows that in the King case, just as in Dallas, a baffling use was made of doubles. Just as there is evidence that two men used the name of Lee Harvey Oswald, so is there evidence that someone besides James Earl Ray knew and used some of his various aliases. Here are a few of the points Weisberg raises:

Ray's arrest at Heathrow (London) Airport, June 8, 1968. According to Scotland Yard, Ray, traveling under the name of Ramon George Sneyd, came into the airport about 6:15 A.M. on a flight from Lisbon. While waiting for his plane to refuel and fly on to Brussels, he wandered unnecessarily into the immigration section for incoming passengers and was spotted and detained. But on that date a man using the name of Ramon George



"That's all you did in the big war, Dad—keep an eye on this guy Hopkins?"

Sneyd was living—and had been for several days—at the Pax Hotel in London. He left about 9:15 the same morning to catch a plane for Brussels. The FBI's reconstruction of the case was based upon the proposition that Sneyd No. 2 was really Ray. The landlady of the Pax was subpoenaed for possible appearance in the Memphis farce, which the press dubbed "the minitrial." She said afterwards that she had been warned by an FBI agent, accompanied by four Scotland Yard operatives, that she was only to answer the questions she was asked—she was not to volunteer anything. When she remarked that she had found a hypodermic syringe in "Sneyd's" room after he left, she was "virtually told" she must be lying because Ray was not a narcotics addict. Was this all just some kind of official foul-up in announcing the details of Ray's arrest? No; as Weisberg shows by correspondence he reproduces, Scotland Yard was insisting in November 1968—five and a half months later—that the man it had arrested arrived on a Lisbon flight. Who, then, was the man at the Pax who had been using Ray's alias?

The two white Mustangs. The official version states that after Ray shot Dr. King from the bathroom window of a Memphis flophouse, he made his escape in a 1966 white Mustang he had purchased secondhand in Birmingham, Alabama. He drove some 400 miles through the night and abandoned the car in an Atlanta parking lot, where it was not discovered for days. But there is abundant evidence that two similar white Mustangs were parked in the street near the flophouse at the time of the slaying. According to eyewitnesses, both had red and white license plates—one set were Alabama tags, the other Arkansas. Furthermore, the Mustang which Ray had purchased in Birmingham had an automatic shift, while the one abandoned in Atlanta, with Ray's license plates on it, had a stick shift. The ashtray of the abandoned Mustang was overflowing with cigarette butts—and Ray does not smoke. No mention of model or serial numbers, which would have identified the Mustang positively, was made at the Memphis minitrial, and, though the car must have been splattered with fingerprints, there was no indication that the FBI had found a single print of Ray's in this, his supposed getaway car—evidence that almost certainly would have been flaunted, if it existed, to rivet the case beyond doubt.

The duplicate driver's license. In early March 1968 Ray was in Los Angeles attending bartender's school and getting his pointed nose clipped by a plastic surgeon. Records establish his

presence there beyond doubt. But, at this very time, the Alabama Highway Patrol received a telephone call from a man calling himself Eric Starvo Galt (the alias Ray had used in Birmingham). The caller said he had lost his driver's license and needed a duplicate, and gave the address of the Birmingham rooming house at which Ray had stayed. The duplicate license was mailed; the small fee required for this service was promptly paid—and Ray was not in Birmingham, but in California, nearly a continent away. The evidence seems unchallengeable that someone other than Ray—the rooming-



house proprietor could not say who—had picked up the duplicate license and mailed the fee.

The telltale bundle. According to the official version, Ray, after shooting King, walked out of the flophouse, deposited a bundle almost in the doorway of an adjacent café, strolled down the street, and drove off in his Mustang. The bundle contained the rifle Ray had purchased and which supposedly did the killing, put carefully back into its cardboard carrying case and wrapped in a green bedspread, along with a pair of binoculars which Ray had bought that very afternoon and which were decorated with his fingerprints. There was also a shaving set he had purchased the day before—and, most helpful of all, a transistor radio he had acquired while in Missouri State Prison, with his prison number stenciled on it. Weisberg holds that it defies belief that the real killer would have taken the time to insert the rifle in its case and wrap up all these articles, then just drop them on the street instead of taking them with him in the Mustang. Such an action, he argues logically, can be reconciled only with the role of a man serving as decoy in an elaborate plot.

Evidence that Ray fired the shot. There is none. The medical examiner's testimony at the minitrial failed to establish the first essential—the trajectory of the shot that killed Dr. King. *Paris-Match* tried the experiment of re-enacting the crime and found that the killer would have had to be a contortionist to have fired from the bathtub, as was alleged. Ballistics testimony was worthless. Dr. King had been killed by a soft-nosed dum dum bullet; when it struck it exploded and fragmented. The prosecution claimed the largest fragment was "consistent"

with a shot fired from Ray's rifle. That is the very word used by a corrupt prosecution in the Sacco-Vanzetti trial, when a police expert who was convinced fatal shots had *not* been fired from a given revolver was asked whether it was "consistent" that they had. He could answer "Yes," since the shots had obviously been fired from a revolver. So here "consistent" means only that the bullet fragment came from a rifle. The term that so deceived press and public does not meet the first requirement of proof—that the ballistics expert be able to testify the shot came from Ray's rifle and no other.

There is more, much more, in Weisberg's book. There is the question of how Ray, alone and unaided, a stranger in Canada, managed to come up with aliases that were the real names of three living men who looked much like him, in one case even to a similar scar on the face. There is the mystery of his free-spending, cross-continental Canadian-Mexican spree, and of how a penny-ante crook like Ray came by so much money. There is the business of the phony police radio broadcast on the night of the assassination, graphically describing a gun battle with a fleeing car, which led police north out of Memphis and away from the assassin's escape route. The reek of conspiracy is on everything.

Weisberg is an indefatigable researcher. Unfortunately, he is not a skilled writer. His book suffers from lack of organization and conciseness. He mentions an issue in passing, then pages or even chapters later he goes back and worries it. He repeatedly lashes out at virtually all concerned in the minitrial as liars and scoundrels, devoting long passages to denunciation instead of the cool presentation of evidence. Though his indignation is in most instances thoroughly justified, it gets in the way of the story.

But when all this has been said, Weisberg remains invaluable. He has pursued the facts, and they are there, buried in the mass of his book. And they are facts that lay claim to the conscience of America. For it should be clear by now that, if the assassinations of some of the nation's most outstanding leaders are to be dismissed with the "one man-no conspiracy" refrain, there will be no deterrent to conspiracies in the future whenever hate may point the way and pull the trigger. And, in that event, this greatest of democracies will have been reduced to the status of a Latin American banana republic. That is the issue.

Fred J. Cook is the author of "The Troubled Land," "The Secret Rulers," and "The FBI Nobody Knows."

Some were killed in "auto accidents", some died of ostensibly "natural causes" but in violation of all actuarial tables, and some were even killed "accidentally" in police stations (see Forgive My Grief, by Penn Jones, Jr.).

But the Commission did not call Hudkins as a witness either to Oswald's connections with the FBI or to the strange disinterest of the police in the unauthorized and improper presence of the violent Ruby, who was known to travel with a gun, on all the earlier occasions on which he could have murdered Oswald; or to the remarkable and immediate presence of his lawyer to seek his release once the murder was done.

This document is in the Commission's own files, where it is in the fifth folder of File 87, folio 640. This file is a five-volume Secret Service Report forwarded January 8, 1964. It is among the earliest evidence available to the Commission. The same information is duplicated in another Commission file, 81, from the Texas Attorney General, where it also contains a covering note, unsigned and on a blank piece of paper, reading, "If this office can be of further help to you, please contact us." It is page 326 of File 81.

Ruby's connections were of as little interest to the Commission staff as those imputed to Oswald. Liebelar's heroic proportion in Inquest, through which he assaulted his former Commission associates in its "establishment of truth", exceeds the record he made for himself as the assistant counsel who left unanswered and unpursued Teofil Meller's statement that before the assassination Oswald was "all right" to the FBI.

Captain W. P. Garraway Special Service Bureau Dallas Police Department	To: Lieutenant Jack Devill Criminal Intelligence Section Special Service Bureau Dallas Police Department	February 17, 1964
Sir:		SUBJECT: CRIMINAL INTELLIGENCE (6) TEOFIL MELLER
Pursuant to the instructions of Captain W. P. GARRAWAY, SUBJECT was interviewed by the undersigned officers and the following report submitted.		
... 2703 Mercedes in Fort Worth two or three times after that to take them food and clothing. OSWALD became very belligerent on these occasions, saying that he didn't need or want help from anyone. MRS. MELLER also said that she saw the book, "CAPITAL", which was written by KARL MARX, during one of these visits at OSWALD'S house and became very worried about it. SUBJECT said he checked with the FBI and they told him that OSWALD was all right.		
SUBJECT stated that a friend of his, MRS. CUNNINGHAM with the TEXAS EMPLOYMENT COMMISSION, helped OSWALD get a job with a photo engraving company in Dallas in October of 1962. When SUBJECT told OSWALD that he should thank her for getting him the job, he said, "Why should I thank anyone for getting me a job? I can't get a job."		
INDEX DATE 2-19-64 INITIALS S	Respectfully submitted, <i>F. A. Hellinghausen</i> F. A. Hellinghausen, Detective Criminal Intelligence Section	<i>V. M. Parks</i> V. M. Parks, Detective Criminal Intelligence Section

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9-28-68

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TO: DIRECTOR, FBI (44-38861)
ATTN: DOCUMENT SECTION
FBI LABORATORY

FROM: SAC, MEMPHIS (44-1987) P

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MURKIN

Submitted herewith are five separate communications which Sheriff WILLIAM N. MORRIS, JR., Shelby County, Memphis, Tennessee, made available to SAC this date. These are letters prepared by subject JAMES EARL RAY. These are all samples of known handwriting and hand printing of subject RAY. They should be utilized for any additional handwriting comparison needed in captioned case.

In addition, there are furnished herewith the originals of two letters which were forwarded by RAY to the Honorable W. PRESTON BATTLE, Judge of the Criminal Court, Memphis, Tennessee. Judge BATTLE will be the presiding Judge in the JAMES EARL RAY trial. These letters were furnished by Judge BATTLE to SAC. In connection with these letters, District Attorney General PHIL M. CANALE, Memphis, raised point that possibility exists that utilization of material furnished the Judge might be prejudicial at some future date. CANALE pointed out that since Judge BATTLE would hear case he was of opinion that it would probably not be feasible to utilize handwriting in letters sent Judge BATTLE. Therefore, it is requested that handwriting examination prepared by Document Section utilize letters received from Sheriff MORRIS as primary sources for examination purposes.

Results of examination regarding letters received by Sheriff MORRIS should be handled in separate communication. Handwriting examination relative to letters received by Judge BATTLE should not be incorporated in the examination of handwriting contained in letters received by Sheriff MORRIS. The letters received by Judge BATTLE should be made a matter of a

3 BUREAU (Enc. 7) (AMSD - REGISTERED)
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a separate examination and a separate Laboratory report. District Attorney General CANALE's views should be incorporated in any results pertaining to examination of the letters received by Judge BATTLE.

The originals should be returned to the Memphis Office so that they can be delivered to Sheriff MORRIS and Judge BATTLE.

FBI

Date: 8/26/68

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

Via AIRTEL _____
(Priority)

TO : DIRECTOR, FBI
FROM : SAC, MEMPHIS (44-1987) (P)
SUBJECT: MURKIN

Enclosed for the Bureau are Xerox copies of the three documents described below. These were furnished by WILLIAM N. MORRIS, JR., Sheriff, Shelby County, Tenn., to ~~_____~~ 8/23/68. *Robert G. Jensen*

- (1) A map which purports to show how the subject escaped from the Missouri State Penitentiary.
- (2) Letter addressed by the subject to his sister, Mrs. CAROL PEPPER, 2025 Belvue, Maplewood, Missouri.
- (3) List of questions, unanswered, which appear to have been prepared for the subject by WILLIAM BRADFORD HUIS.

Since there is some question that this information may be privileged, it is not being disseminated and will not be put in a report.

This is furnished only for the Bureau's information.

3 - Bureau (Enc. - 3) *ENCLOSURE*
1 - Memphis
JCH:MM

REC 48 44-38861-576

EX-105 2 AUG 28 1968

ENCLOSURE ATTACHED

Sent _____ M Per _____

Dear Mr. C.

7-18-63

Tell Jack I got his letter, I also
got one from Jerry. Tell Jack I want
Jerry asking him to come down but
I'm not sure he get it since I
couldn't hardly tell what the address
was behind on the letter, tell him
to write his own or have it
I want to talk to him about it
also I think I got some sense of what
for him to go to the Home
will probably not to see them
being living to stay a couple days
in Bismarck, I can't be anything
of a month. Try to come over
day after next + Sun
Take it Easy Jerry



Mrs. Carol Pepper

2025 Elm Ave

Waplesburg, Missouri

The material which you have written for me is most helpful. With it I can re-create your escape on April 23, 1967, your walk toward Kansas City, how you reached Chicago, and how you lived there for about two months, working at the Indian Trail Restaurant in Winnetka.

I need exactly this sort of information for every other period of your life from the day you left Chicago for Canada.... This 11 months from your escape down to about March 1, 1959.

I also need some additional detail as to your way of life inside the prison during the seven years prior to your escape.

Here are more questions:

In that seven years name for me all the people who visited you.

How often did you have a visit from somebody?

Estimate for me how many times you had a visitor during that seven years?

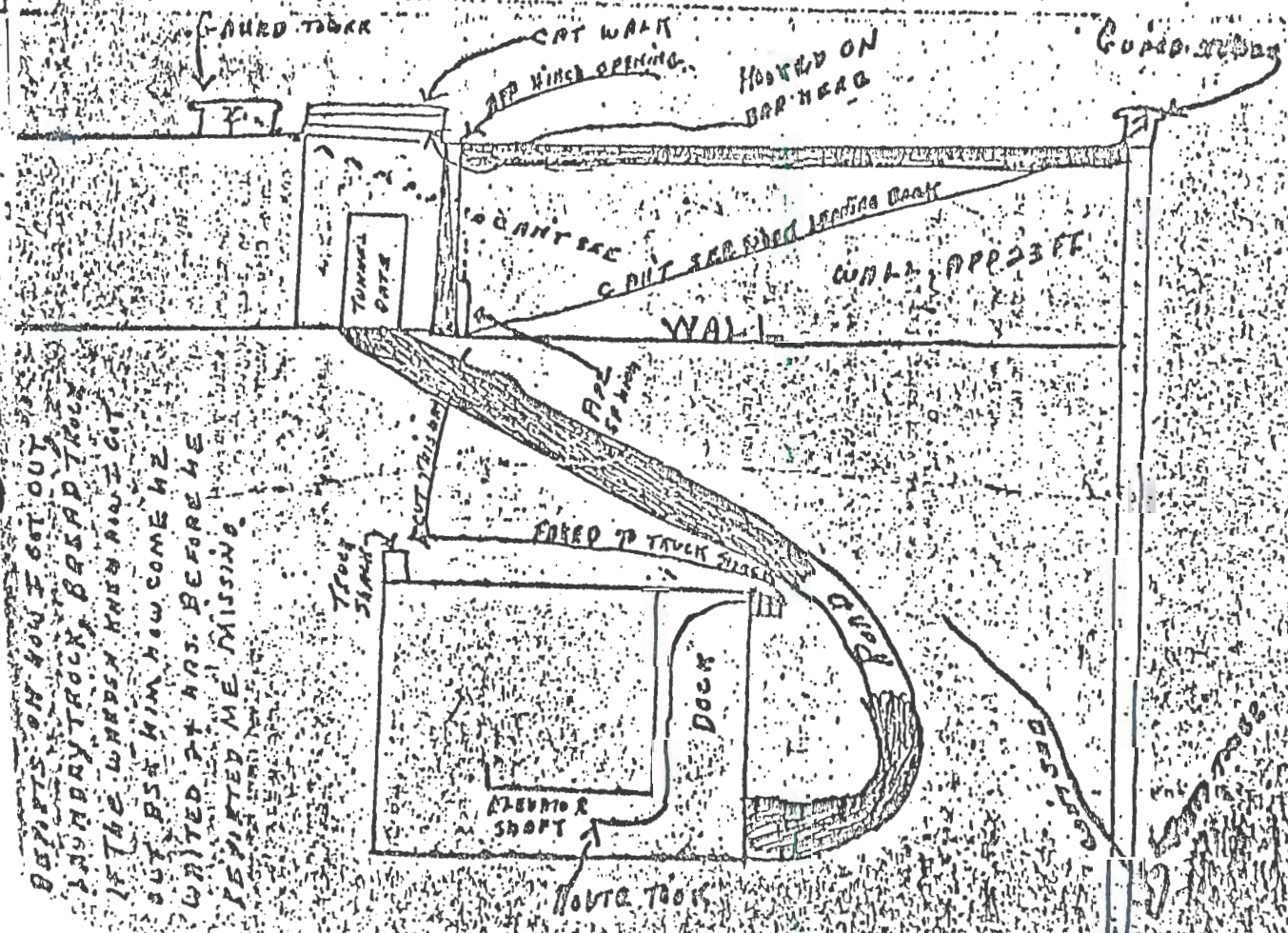
Did any woman ever visit you?

Immediately prior to your escape on April 23rd, when had you had your last visitor? A month? Three months? Christmas? Six months?

Tell me how and where you slept in prison? Alone in a cell? With one cell-mate? Who was your last cell-mate?

Tell me about this last cell-mate? Who? What crime was he in for? Did he talk a lot? What about?

BEATS ON HOW I GOT OUT
LAUNDRY TRUCK, BEARD TRUCK
IF THE WARDEN WHEN I GOT
OUT BEAT HIM HOW COME HE
WRITED IT AND BEFORE HE
REPORTED ME MISSING.



OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-104

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach
FROM : A. Rosen *fr*
SUBJECT: MURKIN

DATE: December 10, 1968
1 - Mr. DeLoach
1 - Mr. Rosen
1 - Mr. Malley
1 - Mr. McGowan
1 - Mr. Long
1 - Mr. Bishop

Tolson	
DeLoach	
Mohr	
Bishop	
Casper	
Callahan	
Conrad	
Felt	
Gale	
Rosen	
Sullivan	
Tavel	
Trotter	
Tele. Room	
Holmes	
Gandy	

This is the case involving the murder of Martin Luther King, Jr.

In connection with the hearing which was to be held on December 12, 1968, at which time Judge Battle of the State Court was to inquire of Attorney Percy Foreman as to whether he is ready to proceed with trial on March 3, we have been advised there may be some delay.

SAC Jensen stated, according to information he received from the State's Attorney General and the Sheriff's Office, it appears Foreman will not show on Thursday, December 12, 1968, inasmuch as he has some commitments on the West Coast. If he does not, the hearing has been set for December 16, 1968.

The State also feels that Judge Battle is annoyed with the dilly-dallying on the part of the defense and is considering asking a public defender to appear in court, at which time he will instruct that the public defender be prepared to proceed with trial. This would not seem to be too logical a course. (This does not seem to be too logical a course inasmuch as the defendant is entitled to an attorney of his own choice in the event he has the ability to pay for it.)

It is also understood Percy Foreman has not asked to see any of the evidence nor has he conducted any investigation or interview of witnesses. He has, however, placed a lien on the Ford Mustang which was purchased by Ray and which was found in Atlanta.

ACTION TO BE TAKEN:

For your information.

AR:lge
(7)

REC-48

✓ 44 38800 5445

N
D. J. G.

ps.

ll

54

FD-36 (Rev. 5-22-64)

FBI

Date: 2/25/69

Transmit the following in _____

(Type in plaintext or code)

Via

AIRTEL

(Priority)

TO: DIRECTOR, FBI (44-38861)

FROM: SAC, MEMPHIS (44-1987) (P)

SUBJECT: MURKIN

Enclosed for the Bureau is one copy each of the following documents:

- A. Memorandum dated 2/5/69, reflecting conversation between WILLIAM BRADFORD HUIE and members of District Attorney General PHIL M. CANALE's staff on 2/4/69.
- B. Letter dated 2/27/69, from JOACHIM JOESTEN to Judge W. PRESTON BATTLE. This was made available to the Memphis Office by General PHIL M. CANALE. Bureau has previously been advised of JOESTEN's interest in this case.

Airtel _____

Teletype _____

L.M. _____

A.M.S.D. _____

Spec. Del. _____

3 - Bureau (Encs.
1 - Memphis

JCH:jap
(4)

REC-25

44-38861-558 E

FEB 26 1969

58 MAR - 3 1969

Approved: _____

Registered _____

M Per _____

Special Agent in Charge

MEMORANDUM

February 5, 1969

RE: CONVERSATION HELD WITH WILLIAM BRADFORD HUIE ON FEBRUARY 4, 1969,
REGARDING STATE OF TENNESSEE VS. JAMES EARL RAY.

Yesterday General Canale, James Beasley, John Carlisle and myself met with Mr. Bradford Huie. This meeting took place in Mr. Huie's room, No. 1108, Rivermont Hotel. When we entered the room, Mr. Huie was alone and started telling us that his interest in the James Earl Ray case was only as a businessman. He related that he had no concern for James Earl Ray one way or the other, other than it was strictly a business situation existing between him and Arthur Hanes, former counsel for Ray and now his attorney Percy Foreman. He further stated that his only other interest other than business in that matter was a earnest desire to get and expose other co-conspirators of Ray. He further related that he wanted to know whether there existed a possibility of there not being a trial in this matter. He felt that a trial should be averted in the common interest of the country and the state of Tennessee and that his thinking was that Ray would ultimately end up and be a witness for the State of Tennessee. He stated that he would like to see Ray and confer with him and that was the reason he was now in the city other than meeting with us. He wanted to explore the possibility with us of him being permitted by the Court to go up and confer personally with Ray and that his main objective would be to convince Ray that he should plead guilty. He also enquired of us as to how much time he would have to serve on a ninety-nine year sentence and also on a life sentence. He interrupted his relating of this statement to enquire as to the possibility of the State not wanting to try this case. He was informed by the General and myself that was our business and we like to try law suits. He felt that if he could confer with Ray that he would have Ray amenable to pleading guilty. He also related that he thought Mr. Foreman whom he had known quite a few years had made a bad mistake by getting into this case. He related that he told Mr. Foreman that this was not a Candis Moessler trial and that he was going to get knocked off in this case. He further related that he told Mr. Foreman James Earl Ray killed Martin Luther

~~King and that everybody knew and was aware of that fact. He further~~

Page 2
Memorandum
Conversation with Huie

related that Mr. Foreman had done some soul searching since he had entered into the defense of James Earl Ray and that Mr. Foreman wanted out of this case. He then began to related that he had traveled extensively checking out information given to him from Ray through Hanes. Ray's story about his complicity in the murder of King. He related that Ray had spent some time in Puerto Vallarto, Mexico, and that Ray had registered at a hotel in Acapulco on October 8 and had made a long distance phone call from that hotel to Corpus Christi, Texas. He related that the Mexican police had checked his registration and found out this fact four days after Ray had left the hotel. He stated that Ray, after killing Dr. King went to Birmingham and he is convinced that he met with someone in Birmingham that night and then on to Atlanta. From Atlanta he is convinced from what he knows about the case that Ray went to Gary, Indiana, and met Jerry his brother. He further stated that Ray went to Toronto and held himself to be Bridgman and Sneyd and that he spent nine days in Montreal and that this can be verified by the fact that in Montreal he robbed a food store. He stated further that Ray came in here on the third and stayed in a motel here and that on the fourth he got a hair cut on Union Avenue, that he had a fixation about getting hair cuts everywhere he went. Stated that Ray bought the binoculars; Ray took the rifle up into his room in the rooming house and that Ray told him that he was sitting in the Mustang car when the fatal shot was fired and an unnamed party came down the steps, jumped in the back of the Mustang, pulled a sheet over him and they fled the scene. An earlier version was he stated Ray told him he was to be in the room and to get the room so that they might meet an unnamed, unknown party and discuss the sale of weapons. Huie related that Ray would tell Hanes and himself a story and they would check this story out and would find that Ray had lied. They would then confront Ray with the fact that they had found out that Ray had told them lies and then Ray would relate another story. Mr. Huie was conveying to us that Ray was apt to lie on many occasions. Mr. Huie says that from his knowledge of cons and from being a police reporter shows that Ray's behavior was par for the course for that type of person. I asked Mr. Huie if prior to our meeting if he had not turned over to Percy

Page 3
Memorandum
Conversation with Huie

told us that on the advice of his attorneys he had given every scrap of paper in Ray's handwriting to Percy Foreman shortly after Foreman came into the case. I asked Mr. Huie if as he had stated earlier that his only interest in this matter was helping to effect the apprehension and exposure of co-conspirators, how he felt that his turning notes of Ray's over to Foreman was fair and consistent with that statement. I also asked Mr. Huie if General Canale hadn't on many occasions asked to confer with him and he had put General Canale off until this date. I reiterated that I couldn't see how his acts in delivering Ray's notes to Foreman was compatible with his statement that his only interest in the case was the exposure and apprehension of co-conspirators. Mr. Huie stated he would have to reflect on that for a while in view of what I had said. He related after reflection that if any time during the trial that we needed to verify something Ray is supposed to have said that that we thought would be beneficial, he would be available and would co-operate with us to that extent. I asked Mr. Huie if he had not made a statement that he had copies of all of these notes and would deliver them upon request to the State of Tennessee. He stated he might have made such a statement but he didn't have any material in his possession that he could copy. Mr. Huie related examples of Ray's lying to him as follows: The version of the escape from the Missouri Penitentiary as published in LOOK magazine was found to be a lie upon subsequent checking by Mr. Huie. The information as published in reference to the hold up of the house of prostitution in Montreal was later admitted to be a lie by Ray and in truth and in fact he held up a food center in Montreal along in early August of 1967 but when questioned about this by Mr. Huie, Ray said it was a half truth because in 1959 he did rob a house of prostitution in the same manner that he described to Mr. Huie. Mr. Huie related that he tried to verify Ray's hold up in Alton, Illinois, a bank and obtaining in the neighborhood of \$20,000 and Mr. Huie stated that he never could verify that he held up the bank in Alton, Illinois. Mr. Huie further related that he had working with him on verifying Ray's story a investigator by the name of Groovich (phonetic). He then related that Oswald had lived in Exchange Alley in back of the Monte Leon Hotel and that

Page 4
Memorandum
Conversation with Huie

At that time the Monte Leon family had as their guests, pilots who had been ransomed from Cuba who had participated in the invasion of the Bay of Pigs. Huie related that Ray on his trip to New Orleans with Ste had met unknown, unnamed parties in a bar from which diagrams made by Ray, Huie concluded was across the street from the Monte Leon. Huie started relating about John F. Kennedy not supporting the invasion of Cuba and that because of that there was much resentment for the Kennedy family among the rescued participants of the invasion of Cuba. He further related that Garrison didn't have anything in his opinion other than a conspiracy that began and ended in the atmosphere of New Orleans. We asked Mr. Huie pointed questions about prior statements made by him in different localities as to him making the assertion that there are other co-conspirators. He stated he might have made statements of that kind. We asked Mr. Huie that if he had any facts or evidence or proof in his possession from any source that would indicate to him from his knowledge of this matter if there were and if there are any co-conspirators. He said that he did not have any proof and that his statements were based on suppositions and inferences that he had drawn from checking Ray's story. We informed Mr. Huie that in view of the fact that he had made these statements about the country and in particular Shelby County that we were handing him a subpoena for his appearance before the Shelby County Grand Jury on Friday, February 7. Mr. Huie accepted his subpoena and said he was not and would not try to avoid it and would be here and would testify. Mr. Huie also added that from his interviewing witnesses he had found that the FBI in showing mug shots to different witnesses for identification purposes that there had been in a group of pictures shown two or three pictures of the same individuals. Mr. Huie stated that the green spread that was used by James Earl Ray to wrap the bundle with the rifle that he dropped on Main Street had come from California. Mr. Huie state that he had purchased an identical rifle that Ray used from Donald Wood at Aeromarine Supply and that he had gone to the rooming house and re-enacted the assassination and that he was convinced that anyone could have made a shot of that kind. It did not take a marksman. Mr. Huie

Page 5
Memorandum
Conversation with Huie

Mr. Huie further related that it struck him as peculiar that Ray did make trips to Aeromarine Supply which is in the vicinity of the airport in Birmingham and that also in that location was the headquarters of General Doster. He stated that Doster assembled the pilots that participated in the Bay of Pigs Invasion. He also stated that it was a known fact that people could come and go there in General Doster's headquarters who were of like character as Ray. Mr. Huie further related that Ray and his brothers were 100 per cent convinced that Wallace was going to be elected president of the United States and that we knew that Ray was politically motivated toward Wallace because of his activities in Los Angeles. He further related that Ray is very disappointed at this time in that Wallace was not elected and that he didn't receive the support from the people that he thought he was going to receive by killing King. Mr. Huie felt that Jerry Ray knew prior to the killing what James Earl was going to do and that he knew after the killing and that he assisted James Earl Ray.

MEF

R.K.D.

Special Agent in Charge

previously submitted in this case. The dent contains microscopic marks of the type which could be produced by the side of the barrel at the muzzle but insufficient marks for identification were left on the board due to the physical nature of the wood. The microscopic marks present are different from the type which would be produced by the duck-bill pliers or tack hammer which were in the blue zipper bag previously submitted. No other marks were found on the board.

No gunpowder or gunpowder residues were found on the Q71 board.

No wood, paint, aluminum or other foreign material was found on the rifle barrel nor were any significant marks found on the rifle barrel.

SEP-12-1968

DEAR SIR;

I WOULD LIKE TO RESPECTFULLY CALL YOUR HONOR'S ATTENTION TO THREE ARTICLES WRITTEN ABOUT ME SINCE YOU ISSUED YOUR ORDER AGAINST PUBLICITY IN THE INSTANT CASE. ONE ARTICLE IS IN THE AUGUST ISSUE OF THE READERS DIGEST BY MR. JEREMIAH O'LEARY, I AM SURE YOU WOULD AGREE THAT THIS ARTICLE COULD NOT HAVE BEEN WRITTEN WITHOUT THE ASSISTANCE OF SOMEONE IN THE JUSTICE DEPT. THE OTHER IS A PICTURE OF ME IN A LATE EDITION OF A TABLOID CALLED THE INQUIRER. THIS IS A TYPICAL PICTURE WHICH THE LAW AUTHORITIES HAVE BEEN RELEASING OF ME, IN THIS INSTANCE THE

J. RAY
MEMPHIS, TENN.
COUNTY, TENN.



Hon. W. Preston Battle - Judge.
Criminal Court Bldg.
Memphis, Tenn.

REGISTERED

PICTURE WAS TAKEN AND RELEASED BY THE
SHOLBY COUNTY SHERIFF OFFICE, IT SHOWS ME
MANACLED UP, A BULLET PROOF VEST ON
AND LOOKING LIKE I JUST BEEN PULLED
OUT OF THE RIVER, THE ACCOMPANYING STORY
DOES NOT RELATE TO ME, THE THIRD STORY
CAME OUT IN WEDNESDAY'S COMMERCIAL APPEAL
THE 12TH, OF SEPT, BY MR. WILLIAM BRADFORD
HUIE. I THINK ALMOST ANYONE READING
BETWEEN THE LINES WOULD INTERPET THIS
ARTICLE AS MEANING THE ONLY THING I AM
INTERESTED IN IS MONEY AND IN MY GREGG
FOR IT I AM GOING TO HELY EXPOSE SOMEONE
OR ORGANIZATION SUCH AS WAS MENTION IN
THE NEWSPAPER ARTICLE, I WOULD LIKE
TO SAY FOR THE RECORD BOTH PUBLIC
AND PRIVATE, I DONT KNOW ANYONE TO
EXPOSE. AND I WANT TO DISASSOCIATE

2.

MYSELF FROM THIS ARTICLE, I HADU REMIED
TO MR. HUIE THAT I WOULD TELL HIM WHERE
I HAD BEEN AND WHAT I HAD DONE AND THATS
ALL, THAT I DIDNT CARE WHAT HE WROTE
BUT NOT TO QUOTE ME. ALSO I CERTAINLY
DIDNT ASK FOR THE ARTICLE OR ANY OTHER
PRE TRIAL STATEMENTS FROM MR. HUIE.
I BELIEVE YOUR HONOR DOES NOT HAVE JURISDICTION
OVER NATIONAL PUBLICATIONS LIKE THE DIGEST,
BUT I WOULD THINK SO IN THE PICTURE MAGAZINE
AND THE HUIE RELEASE. I HAVE SAID NOTHING
SINCE I ARRIVED HERE THINKING THESE
STORIES WOULD STAY UNTIL AFTER THE TRIAL
BUT APPARENTLY THEY ARE NOT, THEREFORE IN
THE NEAR FUTURE I AM GOING TO HAVE AN
ATTORNEY FILE SOME LIBEL SUITS, AND
CONTRADICT SOME OF THE OUTRIGHT LIES.

I AM ALSO SENDING THESE STIXYS AND
PICTURES TO THE ETHICAL COMM. OF THE ABA
I BELIEVE IF THESE TYPE OF ARTICLES DINT
STOP I MITE AS WELL WAIVE THE TRIAL
AND COME QUER AND GET SENTENCED,
I REALIZE THAT MR. HANES SHOULD BRING
THIS UP BUT I THINK UNDER THE CIRCUMSTANCES
I HAD TO.
I AM ALSO WRITING HIM TODAY ABOUT THIS MATTER.

SINCERELY

James Earl Ray

4,

3/11/69

MR. TOLSON:

RE: JAMES EARL RAY
ASSASSINATION OF MARTIN LUTHER KING

Now that Ray has been convicted and is serving a 99-year sentence, I would like to suggest that the Director allow us to choose a friendly, capable author, or the Reader's Digest, and proceed with a book based on this case.

A carefully written, factual book would do much to preserve the true history of this case. While it will not dispel or put down future rumors, it would certainly help to have a book of this nature on college and high school library shelves so that the future would be protected.

I would also like to suggest that consideration be given to advising a friendly newspaper contact, on a strictly confidential basis, that Coretta King and Reverend Abernathy are deliberately plotting to keep King's assassination in the news by pulling the ruse of maintaining that King's murder was definitely a conspiracy and not committed by one man. This, of course, is obviously a rank trick in order to keep the money coming in to Mrs. King, Abernathy, and the Southern Christian Leadership Conference. We can do this without any attribution to the FBI and without anyone knowing that the information came from a wire tap.

Respectfully,

C. D. DeLoach

CDD:CSH (3)

cc Mr. DeLoach
Mr. Bishop

See ADDENDUM... page 2

REC-33

MAR 26 1969

MAR 26 1969

4/2/15
see copy of memo to Bishop
3/20/69
Galt

- Mr. Tolson ✓
- Mr. DeLoach ✓
- Mr. Mohr ✓
- Mr. Bishop ✓
- Mr. Casper
- Mr. Callahan
- Mr. Conrad
- Mr. Felt
- Mr. Gale
- Mr. Rosen ✓
- Mr. Sullivan
- Mr. Tavel
- Mr. Trotter
- Tele. Room
- Miss Holmes
- Miss Gandy

UNRECORDED COPY FILED IN

3/12/69

If the Director approves, we have in mind considering cooperating in the preparation of a book with either the Reader's Digest or author Gerold Frank. The Reader's Digest would assign one of their staff writers or contract the preparation of a book out to an established author. Gerold Frank is a well-known author whose most recent book is "The Boston Strangler." Frank is already working on a book on the Ray case and has asked the Bureau's cooperation in the preparation of the book on a number of occasions. We have nothing derogatory on him in our files, and our relationship with him has been excellent. His publisher is Doubleday.

N.Y.

~~P~~

JSP

G.H. L.
H

Mr. Tolson	<input checked="" type="checkbox"/>
Mr. DeLoach	<input checked="" type="checkbox"/>
Mr. Mohr	<input type="checkbox"/>
Mr. Bishop	<input type="checkbox"/>
Mr. Casper	<input type="checkbox"/>
Mr. Callahan	<input checked="" type="checkbox"/>
Mr. Conrad	<input type="checkbox"/>
Mr. Felt	<input type="checkbox"/>
Mr. Gale	<input checked="" type="checkbox"/>
Mr. Rosen	<input checked="" type="checkbox"/>
Mr. Sullivan	<input type="checkbox"/>
Mr. Tavel	<input type="checkbox"/>
Mr. Trotter	<input type="checkbox"/>
Tele. Room	<input type="checkbox"/>
Miss Holmes	<input type="checkbox"/>
Miss Gandy	<input type="checkbox"/>

March 20, 1969

Mr. Bishop:

RE: JAMES EARL RAY
ASSASSINATION OF MARTIN LUTHER KING
BUREAU COOPERATION IN A BOOK

By informal memorandum dated March 11, 1969, Mr. DeLoach suggested that consideration be given to our cooperating with a friendly author, or with "The Reader's Digest," in the preparation of a book regarding the Martin Luther King murder case. With regard to this suggestion, the Director noted, "O.K."

With regard to this matter, "The Reader's Digest" has advised that it would greatly appreciate the opportunity to do a book on the Ray-King case with Bureau cooperation. If we approve, "The Reader's Digest" plans to contact Jim Bishop in an effort to place him under contract to write the book for them.

Jim Bishop is, of course, a very thorough and capable writer with whom we have had many contacts over the years. With the Director's approval, we worked with Bishop in connection with his latest published book, "The Day Kennedy Was Shot," which contains a number of favorable references to the FBI. The Director has written Bishop on several occasions concerning commendatory columns--including one in 1967 highly praising the Director as "the greatest law enforcement officer in all history."

Even though Bishop has been described in Bufiles as "somewhat pompous and a little overbearing at times," he nonetheless has both the name and ability to produce a book on the King case which would give proper credit to the outstanding work done by the FBI. Accordingly, it is recommended that approval be given to our cooperating with "The Reader's Digest" and Jim Bishop on this book.

Sincerely,

M. A. Jones

- 1 - Mr. DeLoach
- 1 - Mr. Bishop
- 1 - Mr. Rosen
- 1 - C. L. McGowan
- GWG:pls (7)

APR 3 1969

I think we should wait & see what move they make to re-open the case.

MAR 20 1969

RECEIVED DIRECTOR

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach
FROM : A. Rosen
SUBJECT: MURKIN

DATE: January 16, 1970

- 1 - Mr. DeLoach
1 - Mr. Rosen
1 - Mr. Mahey
1 - Mr. McGowan
1 - Mr. McDonough
1 - Mr. Bishop
1 - Mr. Mohr

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

This is the case involving the murder of Martin Luther King, Jr. Set forth hereunder is the current status of prosecutive action relative to the subject, James Earl Ray who is serving a 99 year sentence for murder in the Tennessee State Penitentiary, Nashville, Tennessee.

STATUS OF STATE PROSECUTION:

On January 8, 1970, the Tennessee State Supreme Court denied a petition by James Earl Ray for a new trial. In handing down the unanimous (four judges sitting) decision, the court noted that Ray had knowingly pleaded guilty in State Criminal Court to the slaying of King, that he had been represented by competent counsel and had waived all rights of appeal in entering his plea.

SAC, Memphis has advised that on January 12, 1970, Jesse Clyde Mason, Assistant State Attorney General, Shelby County, Memphis, Tennessee, advised that the only other appeal recourse that James Earl Ray has in connection with his conviction in the murder of Martin Luther King, Jr., is to file a motion under the Tennessee "Post-Conviction Relief Act." He stated that attorneys for Ray have not filed such a motion to date; however, he anticipates that such a motion will be filed within the next thirty days. He asserted that there is no time limitation for such a motion to be filed in Ray's behalf; however, the longer that Ray waits to file such a motion hinders his chances of having a successful opinion rendered in his behalf. If such a motion is filed and is declined at the Shelby County Circuit Court level, Ray does have recourse through the Appellate Court and State Supreme Court on this particular issue.

Mason stated that if Ray is unsuccessful in obtaining a new trial under the Tennessee "Post Conviction Relief Act," he then has recourse through the Federal courts by a habeas corpus action claiming that his constitutional rights have been violated in that his plea of guilty to the murder charge was not given voluntarily.

016 JUN 1970

EJM:cs (8)

CONTINUED - OVER
(SEE ADDENDUM ON PAGE 3.)

Memo Rosen to DeLoach
RE: MURKIN

STATUS OF FEDERAL PROSECUTION:

Federal process is still outstanding on Ray charging that he and an individual who he alleged to be his brother conspired to interfere with a constitutional right of Martin Luther King, Jr., namely, the right to travel freely from state to state.

RELEASE OF INFORMATION:

It is noted that consideration was previously given to the release of information regarding the Bureau's outstanding handling of this investigation. Ray currently still has possible avenues of appeals in state courts and through the Federal courts and Federal process is still outstanding on the conspiracy charge which the Department previously declined to have dismissed even though it is within their province to do so. Investigation has indicated that Ray acted alone and no evidence of a conspiracy has been developed and, therefore, the Department is not in a position to proceed on the conspiracy charge. However, inasmuch as he never was tried by a jury and has not exhausted the possibility of an appeal in State court and as Federal process is still outstanding, it is felt that the releasing of any information of a possible evidentiary nature should be taken up with the Department prior to making any such release and assuming such a responsibility.

ACTION:

For information. Any further appellate action by Ray will be closely followed and you will be kept advised.

P.J.

R

- 2 -

o/s
↓

o/s
↓

Rosen to DeLoach Memorandum
RE: MURKIN

ADDENDUM BY C. D. DE LOACH, 1/15/70:

I agree thoroughly that the Department should be consulted prior to any cooperation being given by the FBI to anyone. However, I believe that our chances for good public relations and solid credit in this particular case are being gradually eroded away by those critics who are constantly harping about the wiretap on Martin Luther King as well as his (King's) criticisms against the FBI. Frankly, considerable aspects of this case are already within the public realm. This includes the Reader's Digest article by Jerry O'Leary as well as hundreds of articles which have appeared in the press and programs on radio and television. Consequently, there is not a great deal more that could be said in a book.

Ray can always launch an appeal. He could actually do so ten to twenty years from now. Therefore, we are always faced with this prospect regardless of the circumstances. I believe that a "reasonable time" has elapsed and the consideration should be given at this time to granting the Reader's Digest request that Jim Bishop be allowed to write a book on this case.

Admittedly, Jim Bishop is somewhat pompous, however, he is cooperative, friendly and perhaps the most thorough, exacting author in this particular category of books. As stated above, however, we should get the views of the Department in writing before proceeding.

CDD:amr
(7)

Handwritten initials and scribbles.

WBS

Handwritten initials and scribbles.

UNITED STATES GOVERNMENT

Memorandum

Tolson	_____
DeLoach	_____
Mohr	_____
Bishop	_____
Casper	_____
Callahan	_____
Conrad	_____
Felt	_____
Gale	_____
Rosen	_____
Sullivan	_____
Tavel	_____
Trotter	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

TO : Mr. DeLoach

DATE: October 20, 1969

FROM : A. Rosen

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. McDonough
- 1 - Mr. Bishop
- 1 - Mr. W. C. Sullivan

SUBJECT: MURKIN

This is the case involving the murder of Martin Luther King, Jr.

Weisberg is apparently identical with Harold Weisberg an individual who has been most critical of the Bureau in the past. He is the author of several books including one entitled, "Whitewash - The Report of the Warren Report" and has been critical of the FBI, Secret Service, police agencies and other branches of Government.

By letter in April, 1969, requested information on the King murder case for a forthcoming book. It was approved that his letter not be acknowledged. (100-35138)

Enclosures (2) 10-21-69

EJM:jmv (8)

REC-52

CONTINUED - OVER

70 NOV 6 - 1969

ROBERT K. DWYER
EXECUTIVE ASSISTANT

LLOYD A. RHODES
ADMINISTRATIVE ASSISTANT

JOHN L. CARLISLE
H. J. BEACH
E. L. HUTCHINSON, JR.
CLYDE R. VENSON
CRIMINAL INVESTIGATORS

EARL E. FITZPATRICK
NON-SUPPORT DIVISION

PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL
FIFTEENTH JUDICIAL CIRCUIT OF TENNESSEE
COUNTY OF SHELBY

SHELBY COUNTY OFFICE BUILDING
157 POPLAR AVENUE
MEMPHIS, TENN. 38103

March 24, 1969

ASSISTANTS

WILLIAM D. HAYNES
JAMES C. BEASLEY
EWELL C. RICHARDSON
JEWETT H. MILLER
J. CLYDE MASON
SAM J. CATANZARO
LEONARD T. LAFFERTY
ARTHUR T. BENNETT
DON D. STROTHER
DON A. DINO
JOSEPH L. PATTERSON
BILLY F. GRAY
EUGENE C. GAERIG
HARVEY HERRIN
F. GLEN SIBSON
JOHN W. PIEROTTI

Mr. Harold Weisberg
Coor d' Or Press
Route 8
Frederick, Maryland 21701

Dear Mr. Weisberg:

You may obtain a copy of the transcript in
the James Earl Ray case at 50¢ per page from:

J.A. Blackwell
Criminal Court Clerk
157 Poplar Avenue
Memphis, Tennessee

The transcript consists of eighty-eight (88) pages.
None of the evidence not in the transcript will be
available to anyone.

Yours truly,


LLOYD A. RHODES
ADMINISTRATIVE ASSISTANT

LAR/lb

EXHIBIT 2

GEORGE McMILLAN
12 HILLIARD STREET
CAMBRIDGE, MASS 02138
PHONE 817-547-6260

Sept 14, 1973

Dear Jack:

That was a good letter you wrote about the blackberries, etc. Peacock is now living in Lewiston, not far from Ewing. I heard that his wife is an alcoholic and that he isn't doing much of anything himself.

My lawsuit to see you goes on, in fact my lawyers expect some kind of decision from the federal judge here in Boston within next two weeks. Sut, even if he acts in my favor, the government has recourses which will still delay my seeing you. I am now well along with my book and am working against a hard deadline of March 15, 1974. It is the absolute last date on which I can do anything with my manuscript. That means it will be published in the Fall of 1974, about a year from now. Book publishing is a very slow affair..

The thing I want to talk with you about now is ~~xxxxxxx~~ about what went on between you and Jimmy and Jerry and Jimmy in that year between the time he escaped from Jeff City and was arrested in London. I especially want to know about the time between Jeff City and Memphis. What I most want to do is check with you the story Jerry told me in Chicago in the summer of 1972 when I went out there two times to interview him. He told me one hell of a lot stuff. Then he sent me a tape on which he said he had conned me. I put all the stuff I got from him aside, telling myself it was probably all a lot of shit. Then the other day I looked at it again, read it all over carefully. I changed my mind about it. I decided that Jerry had told me the truth, that all the stuff was pretty much true, that maybe he had lied to me about some names, invented something here or there, but that the general story he told me was true. That's what I believe now, and I mean to use the stuff.

But I want to check it as much as I can. I've already checked a couple of things & they've turned out to be true. Sometime before I write this section I am going to Memphis and look at the FBI file on the case; that's been made available to me. Knowing what I know, some of the things in that file might look different to me from what they looked to Frank and Huie.

(More)

PS I thought a man named Cason ran the pool hall? ~~xxxx~~ And barber shop. Did he come before or after Fat Brown? Or did Cason own it and Fat run it?