

MEMORANDUM

by Frederick W. Veters, Assistant U. S. Attorney

On Saturday, May 6, 1967, I learned from reading the local newspapers that Special Agent Regis L. Kennedy, Federal Bureau of Investigation, had been served with an Orleans Parish Grand Jury subpoena. The subpoena was returnable on May 10, 1967.

Upon reaching my office on Monday, May 8, 1967, I was requested by the U. S. Attorney to prepare a Memorandum of Authorities in support of a motion to quash the aforesaid subpoena. I was told that Mr. John Ciolino and I would represent Special Agent Kennedy in Criminal District Court for the Parish of Orleans in all matters relative to the subpoena issued by the Orleans Parish Grand Jury.

Between this date and the time of our first appearance in court, members of our staff had several conferences with Agent Kennedy. The primary purpose of these conferences with Agent Kennedy was to advise him of the executive privilege, whereby he was prohibited from testifying without the express consent of the Attorney General to any information or material contained in the files of the Department of Justice or any other information or material acquired as a part of the performance of his official duties or because of his official status without the prior approval of the Attorney General. In short, the provisions of 28 CFR 16.1, 16.2 and 16.3 were fully explained to Agent Kennedy. I recall Mr. LaCour, in explaining the executive privilege, advise Agent Kennedy that only such innocuous and personal matters as his name, residence, marital and family status, occupation, and number of years employed by the Federal Bureau of Investigation, were not covered by the privilege, and that to all other matters Agent Kennedy should invoke the privilege. Furthermore, Agent Kennedy also received a telegram from the Attorney General directing him "to respectfully refuse to testify about or disclose information or material acquired in the performance of (his) official duties or because of (his) official status."

I also recall Mr. Palmisano advised Agent Kennedy of the nature of the privilege, and that, as a Special Agent of the Federal Bureau of

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Investigation, Kennedy was on duty 24 hours a day, so that even events occurring, for instance, at a cocktail party, while Kennedy was not conducting a formal investigation, would be covered by the privilege.

On the morning of May 10, 1967, Agent Kennedy came to our office for a further briefing prior to proceeding to Criminal District Court for the Parish of Orleans. Agent Kennedy was given by Mr. LaCour a copy of the format, which included a copy of the telegram sent to Agent Kennedy by the Attorney General, and which format he was instructed to read upon each occasion that he exerted the executive privilege before the Grand Jury. I recall that Mr. Ciolino and I were present in Mr. LaCour's office at the time the format was explained to Agent Kennedy. At this conference, Agent Kennedy was again advised of the nature and extent of the privilege by the attorneys present, even though it was anticipated that Kennedy would not actually testify on that date because of the Government's intent on filing the motion to quash.

I recall Agent Kennedy coming to our office on the mornings of May 16 and 17 prior to proceeding to Criminal District Court. On each of these occasions the privilege and the procedure to be used in exercising the privilege was explained to him.

On the afternoon of May 17, 1967, I recall Mr. Ciolino advised Agent Kennedy that certain ground rules had been laid down at a conference with Judge Bagert, whereunder Mr. Kennedy should ask for permission to consult with his attorneys and/or the Court whenever he had any doubt as to whether or not he should exercise the privilege. Mr. Garrison did not attend this conference, but Mr. Alcock, an Assistant District Attorney, did. Mr. Ciolino advised Agent Kennedy that he should remind Mr. Alcock of the ground rules, which had been previously established, in the event he, Kennedy, wished to confer with his counsel.

Special Agent Kennedy was called before the Grand Jury on the evening of May 17, 1967. He withdrew from the Grand Jury room after having been in there for approximately one hour. After he left the Grand Jury room he walked briskly down the corridor. When he passed Mr. Ciolino and me, he stated, "I've been excused.", but Agent Kennedy did not stop

and he continued at his brisk pace. By the time we realized that Agent Kennedy was not waiting for us (even though we had brought him to the court house), it was too late to catch up with him.

The next occasion on which we saw Agent Kennedy was at a conference in the U. S. Attorney's Office later in the evening on May 17, 1967.