

United States Department of Justice

UNITED STATES ATTORNEY
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS 16, LOUISIANA

May 18, 1967

Belcher
129-11

MEMORANDUM

FILE

On Friday, May 5, 1967, Special Agent Regis L. Kennedy of the Federal Bureau of Investigation was served with a subpoena to appear before the Orleans Parish Grand Jury to "testify to the truth answering to the knowledge on such matters as may be required by you." This subpoena was returned on May 10, 1967.

On Sunday May 7, 1967, Judge Bernard J. Bagert returned my telephone-call of May 5 while I was at home. I informed Judge Bagert that it was the intention of the Department of Justice to file a Motion to Quash the Orleans Parish Grand Jury subpoena served upon Agent Kennedy. On Wednesday, May 10, 1967, we did in fact file a Motion to Quash with usual supporting affidavits and legal memoranda. The thrust of our ~~objection~~ was, of course, Department Order 324-64. After numerous consultations with Messrs Cossack, Belcher and Sanders of the Department of Justice, we were agreed that Agent Kennedy would appear in the event our Motion to Quash was denied, that he would invoke the Executive Privilege on all matters pertaining to his official duties, the files of the Department of Justice and his official status as a Special Agent of the Federal Bureau of Investigation. I personally on at least three occasions explicitly instructed Special Agent Kennedy that when and if he had to appear before the Orleans Parish Grand Jury, he would answer only such questions as, name, age, marital status, occupation and etc. He was explicitly instructed that he was to invoke the Executive Privilege if he were asked questions on any matters that related in any way to any investigation that he or another agent or another agency may have conducted. The same instructions were given Special Agent Kennedy by First Assistant Gene Palmisano who went even further by way of illustrative hypothesis.

The hearing on the Motion to Quash was set for argument on Wednesday, May 17, 1967, at 10:00 A. M. in Section H of the Criminal District Court for the Parish of Orleans. Oral arguments were heard and the Motion to Quash was denied by the Court. Present with Assistant United States Attorneys Frederick W. Veters and John C. Ciolino was Special Agent Regis L. Kennedy, who was instructed to stand mute in the Court room. After the Court denied the Government Motion to Quash, AUSAs Veters and Ciolino along with Special Agent Kennedy, returned to the office of the United States Attorney where I again instructed Special Agent Kennedy to invoke the Executive Privilege as hereinabove stated.

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This office had thoroughly and completely advised Mister Kennedy as to the course of action expected of him by the Attorney General. He was accompanied by the AUSA at all times that an appearance by him was necessary. Another AUSA was on standby with prepared Removal Proceedings and Writ of Habeas Corpus papers. The chief Judge of the District had been alerted and was standing by in the event a show cause ~~order~~ ^{was} filed in State Court and removal ~~to the Fed Ct~~ ^{to the Fed Ct} necessary. The Clerk of Court was standing by in the event it was necessary that a Writ of Habeas Corpus issue. ~~the United States Marshal and three officers were standing by to make her removal necessary.~~ During the entire day ~~Special Agent of the FBI~~ ^{Special Agent of the FBI} remained in my office and was fully apprised of the protective precautions taken by this office in order that Agent Kennedy could comply with the instructions of the Attorney General and not be incarcerated.

A copy of the Statement dictated by Agent Kennedy upon his arrival at the United States Attorney's on the evening of May 17, 1967, after his appearance is attached hereto.

This morning May 18, 1967, I was telephonically contacted by Agent ~~Wahl~~, who informed me that since Mister Kennedy had a good night's rest and his mind was clearer than the 17th, they had polished up a statement which they were forwarding to the Bureau, a copy of which they desired I have. I told ~~her~~ that I would be happy to receive a copy of such statement. [I question the sentence which says in part "When the Government's motion to quash the subpoena was denied and prior to my appearance before the Grand Jury, AUSAs' Ciolino and Veterans tempered LeCour's instructions to the extent that it would be necessary for me to justify invoking the privilege as it would be subject to judicial review." This is categorically denied by AUSAs' Veterans and Ciolino. I also told Agent ~~Wahl~~ that they had failed to include the fact that the Judge had ordered the District Attorney that Mister Kennedy could leave the Grand Jury at any time he desired. This resulted in the redictation of page 2 of the "polish report" which report is attached hereto, included the original page 2 and the corrected page 2.] ^{attached}