

United States Department of Justice

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

May 18, 1967

Belcher

129-11

FILE

MEMORANDUM

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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Additionally Special Agent Kennedy was given a triple spaced typed statement setting forth Order 324-61 and incorporating the Attorney General's telegram instructing him to invoke the Executive Privilege and not to testify.

Inasmuch as the Court had ordered Special Agent Kennedy to appear before the Orleans Parish Grand Jury at 2:00 P. M., on Wednesday, May 17, 1967, he was accompanied to the Grand Jury room by AUSAs' Ciolino and Veters. It is noteworthy at this point to mention that after the Court in the morning session had denied the Government's Motion to Quash, on my instructions AUSAs' Veters and Ciolino requested the Judge to issue instructions to the State District Attorney's Office that if at any time during his presence in the Grand Jury room Agent Kennedy had any doubts or desired for any reason to consult with the two AUSAs that were standing at the door of the Grand Jury room, he was to be allowed to do so. The Judge complied with this request and ordered the District Attorney to allow Mister Kennedy to leave the Grand Jury room at any time he desired counsel.

Agent Kennedy was not called until approximately 4:50 P. M. He remained in the Grand Jury room and was questioned by District Attorney Garrison and Assistant District Attorneys' Alcock, Sciambra and Oser. Contrary to the explicit instructions that all the AUSAs and myself had given Mister Kennedy and contrary to the order of the Attorney General, Mister Kennedy chose to be selective in answering questions and invoking the Executive Privilege.

Upon leaving the Grand Jury room, Mister Kennedy sped past the two AUSAs and simply commented to them that he was excused and hastened down the hall and left in spite of the fact that he had gone there with the two AUSAs. This behavior I think to be somewhat unusual. The AUSAs had to remain at their positions at the Grand Jury room. ^{Generally,} one of the State District Attorney emerged so that they could ascertain the Court's posture of the situation. Special Agent Kennedy telephoned me a short time after he had left ^{the Grand Jury} and I instructed him to come straight to my office in order that we may be informed as to what transpired. He reluctantly agreed to do so. He did not, however, come directly to this office but did instead go first to the office of the ^{Assistant District Attorney} and then come to my office accompanied by Agent Ernest Wehr. ^{a different agent to the one} I met him at the Criminal Court building at Poydras and Broad. Immediately I informed him that I had a stenographer standing by and that it was my desire before we get into any involved discussion that he would dictate to the stenographer the questions asked of him and the answers given thereto. It took considerable prompting to get him to do this though at no time did he refuse. A copy of this statement, dictated to the department on the morning of May 18, 1967. It was learned that Agent Kennedy attempted to answer questions as to whether he knew certain individuals or could he identify deBrueys. He denied having ^{any} ~~any~~ ^{contact} with David Ferris in the year of 1963. He was asked about Oswald and goodness knows otherwise he may have been asked. He invoked Executive Privilege sporadically. The observation of the District Attorney ^{and his} ~~his~~ ^{assistants} was that it was ~~inconclusive~~ withheld.

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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}