

BILLY J. SMITH

1
2
3 The said witness, having been first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION
6 BY MR. LIVINGSTON:

7 Q. Will you state your name to the court, please?

8 A. Billy J. Smith.

9 Q. What is your occupation or profession, Mr. Smith?

10 A. I am an inspector with the Shelby County Sheriff's
11 Department.

12 Q. How long have you been employed by the Shelby County
13 Sheriff's Department?

14 A. Since April 1, 1961.

15 Q. Were you so employed at the time of the incarceration
16 of James Earl Ray in the Shelby County jail in 1968 and
17 1969?

18 A. Yes, sir, I was.

19 Q. Exactly what were your duties at the time of the
20 incarceration of Mr. Ray in the Shelby County jail?

21 A. I was in charge of the special detail that handled
22 the security on him.

23 Q. That was your sole responsibility?

24 A. Yes, it was.

25 Q. Given to you by the sheriff of Shelby County?

1 A. Yes, sir.

2 Q. Who was the sheriff of Shelby County at the time?

3 A. William Morris, Jr.

4 THE COURT: Excuse me. Would you lean
5 forward a little bit. We are having trouble
6 hearing you.

7 BY MR. LIVINGSTON:

8 Q. As the officer in charge of security was a special
9 cell built for Mr. James Earl Ray in the Shelby County jail?

10 A. One of our existing cell blocks was prepared.

11 Q. Do you recall specifically the time of the renovation
12 of this special cell, Inspector?

13 A. It was prior to his arrival. I mean I think in June
14 or July of '68.

15 Q. You think it was June or July of '68?

16 A. Yes. It was finished before he arrived at the jail.

17 Q. If James Earl Ray was arrested in London, England
18 on June 8, 1968, the work on the cell commenced immediately,
19 didn't it?

20 A. No. I wasn't downtown at the time the work started
21 on the cell. All I know is that it was completed at the
22 time he arrived in Memphis.

23 Q. Did you observe the construction of this special cell?

24 A. I did not.

25 Q. Who did observe the -- supervise the construction of

1 this special cell?

2 A. Sheriff Morris.

3 Q. To your knowledge did Sheriff Morris confer with
4 anyone else in the plans and construction of this cell?

5 A. I am sure he did.

6 Q. Do you have any knowledge of Sheriff Morris conferring
7 with Attorney General Phil Canale concerning this?

8 A. I do not know whether he did or not.

9 Q. Do you know about Sheriff Morris conferring with
10 Judge Preston Battle on this cell?

11 A. Not of my personal knowledge, I don't know that he
12 did, but I am sure he did.

13 Q. Did Sheriff Morris confer with you in the construc-
14 tion of the cell?

15 A. No. The construction was set up when I got downtown.

16 Q. It was constructed before Sheriff Morris determined
17 you would be the officer in charge?

18 A. That's right.

19 Q. Do you recall who the county attorney was at the time
20 of the construction of this cell, Mr. Smith?

21 A. No, I don't.

22 Q. Do you recall that it was the present criminal court
23 judge William H. Williams?

24 A. I am not -- I know he was county attorney at the time
25 he became the judge of the criminal courts, but I am not sure

1 of the exact date.

2 Q. Now, this cell, as the officer in charge of security
3 of course you had sufficient opportunity completely inspect
4 and examine this cell, did you not?

5 A. That's correct.

6 Q. How long was Mr. James Earl Ray kept in this special
7 cell prepared for him by the taxpayers?

8 A. From the time he arrived until he was transferred to
9 Nashville.

10 Q. Do you have any recollection as to the time of his
11 arrival?

12 A. I believe around June or July of '68, and I believe
13 he went to the state penitentiary some time in March of the
14 following year.

15 Q. Do you know when he arrived at the Shelby County jail
16 July 19, 1968?

17 A. That sounds about right.

18 Q. Can you specifically recall that he was taken from
19 this special cell to the state penitentiary at Nashville on
20 or about March 11th or 12, 1969?

21 A. That sounds pretty close to right, yes, sir.

22 Q. And he was living in this special cell approximately
23 eight and a half or nine months?

24 A. That's correct.

25 Q. The cell was modified to the extent that the windows

1 were covered with steel plating, is that correct?

2 A. Yes, it is correct.

3 Q. The air that Mr. James Earl Ray breathed in this cell,
4 was it natural air or furnished by air conditioning units?

5 A. The air he breathed was natural air, but it was cooled
6 by air conditioning.

7 Q. I mean no windows were opened and he was allowed to
8 look out without the benefit of air conditioning?

9 A. The plates on the windows were not air-tight and there
10 is a ventilating system at the rear of the cell.

11 Q. He was not able to look out?

12 A. No, he was not.

13 Q. This cell was as a steel vault, was it not?

14 A. The windows were covered, yes, sir.

15 Q. Was the door covered?

16 A. The doors are steel, yes, sir.

17 Q. Could he see out the door?

18 A. No, sir, he could not. He could see out of the
19 visiting ports when they were open.

20 Q. When they were open?

21 A. Yes, sir.

22 Q. Of course, all he could see out the visitor's port
23 was another part of the jail?

24 A. That's correct.

25 Q. No way he could see out, moonlight or sunlight?

1 A. No, sir.

2 Q. He is in a vault, is he not, in effect?

3 A. He was in a cell block which was sealed up.

4 Q. Who was in the sealed up cell block with James Earl
5 Ray?

6 A. I had two officers in there with him at all times.

7 Q. Did those same two officers continue?

8 A. No, sir. It was two different officers each eight-
9 hour shift.

10 Q. So in effect and in actuality you had six officers
11 every twenty-four hours?

12 A. That's correct.

13 Q. Did those same six officers take care of this detail
14 the entire eight and a half to nine months Mr. Ray was in the
15 cell?

16 A. Some of them did, Mr. Livingston, and some were
17 transferred around the middle of it.

18 Q. But at all times two officers were actually inside of
19 this sealed cell with James Earl Ray, is that right?

20 A. That's correct.

21 Q. What about the surveillance of the interior of this
22 sealed cell, Inspector Smith? Was there surveillance?

23 A. Yes, there were two t.v. cameras. One mounted in the
24 front end of the block to look down the exercise area and
25 one on the north side that looked into the two cells that

1 Ray was housed in.

2 Q. What about surveillance or examination of incoming
3 and outgoing mail to Mr. James Earl Ray? Do you have
4 knowledge of that?

5 A. Yes, sir. The mail coming in was copied and the mail
6 going out, with the exception of his mail to his attorney.

7 Q. The incoming mail to James Earl Ray was copied, and
8 to whom did you furnish copies?

9 A. Mr. Rhodes, one of the assistant attorney generals
10 at the time.

11 Q. You copied his mail and turned it over in to the
12 hands of the prosecution, did you, Inspector?

13 A. That's right.

14 Q. And who instructed you to do that?

15 A. We wrote up a procedure or booklet of orders, and
16 those orders were in the booklet which we wrote.

17 Q. Who is "we"?

18 A. I helped write the book, and John N. Brown, a lieutenant
19 with the Federal Bureau of Prisons.

20 Q. The FBI assisted in the preparation of the book?

21 A. Not the FBI -- the Bureau of Prisons.

22 Q. Employed by the federal government?

23 A. Right.

24 Q. Did District Attorney General Phil M. Canale, Jr.
25 assist in the preparation of this book?

1 A. No, sir, he didn't.

2 Q. Did the late Judge Battle participate in the prepara-
3 tion of this book?

4 A. No, sir, he didn't.

5 Q. Did William N. Morris, Sheriff, participate in the
6 preparation of the book?

7 A. It was prepared at his direction, yes, sir.

8 Q. Did County Attorney William H. Williams participate
9 in the preparation of this book?

10 A. No, sir, he did not.

11 Q. Did any member of the district attorney general's
12 staff confer with you and Mr. Brown and Mr. Morris in the
13 preparation of the book?

14 A. I can't answer for Mr. Brown and Sheriff Morris, but
15 as far as I know no one conferred with me personally about
16 this.

17 Q. I will hand you Trial Exhibit 26, Inspector.

18 THE COURT: Mr. Bonds.

19 (Document passed to the witness.)

20 BY MR. LIVINGSTON:

21 Q. Is this policy statement No. 11 that was in effect
22 at the time James Earl Ray was in the Shelby County jail?

23 A. Yes, it is.

24 Q. I will ask you to read policy statement No. 11 to
25 the court.

1 A. The complete statement?

2 Q. Yes, sir.

3 A. (Reading)

4 "Shelby County Sheriff's Department
[REDACTED]

5 "Criminal Courts Building
[REDACTED]

6 "Memphis, Tennessee
[REDACTED]

7 "Confidential

8 "Policy Statement #11:
[REDACTED]

9 "Subject: Correspondence.
[REDACTED]

10 "All mail for the occupant of 'A' Block will
[REDACTED]
11 be delivered to the Internal Security Section,
[REDACTED]
12 which has been organized to consolidate all security
13 functions, with the exception of the personal safety
14 of the 'A' Block occupant, needed to insure the
15 successful and uneventful trial of this individual.

16 "All mail will be opened by Internal Security
17 Section personnel and personally taken to Mr. Lloyd
18 Rhodes, in the Attorney General's office. Mr. Rhodes
19 will make photostats of all letters and their
20 envelopes. The mail is then returned to the Internal
21 Security personnel and the photostats are filed in
22 the Attorney General's office. Receipts are made
23 in triplicate for all monies received.

24 "All mail is then turned over to the lawyer
25 (he has Power-of-Attorney) representing the occupant
[REDACTED]

1 of 'A' Block. He signs the receipt forms for
2 all money he receives. One copy of the receipt
3 form is given to the lawyer, one copy for the
4 occupant of 'A' Block, and one copy is filed in
5 the Sheriff's office.

6 "The lawyer for the occupant if 'A' Block
7 will decide on what mail the occupant of 'A' Block
8 can receive and he will give this mail to the
9 supervisor of 'A' Block. This supervisor will
10 censor this mail so that he can keep abreast of the
11 current events surrounding the occupant of 'A'
12 Block so as to be more able to cope with the reactions
13 of the occupant to information that might be written
14 to him. This incoming correspondence will be
15 logged in the correspondence log each day (See
16 Policy Statement #24, Paragraph #3).

17 "Correspondence written by the occupant of
18 'A' Block will be duly noted in the Daily Log by
19 the officers assigned to the unit and given to
20 the supervisor in an opened envelope. The supervisor
21 will censor this mail so as to ascertain attitudes,
22 emotional reactions, etc., of the occupant. The
23 supervisor will enter this correspondence in the
24 correspondence log each day and personally give it
25 to the sheriff for disposition. NOTE: Mail written

1 to this individual's attorney will not be required
2 to be submitted in an opened condition nor will it
3 be censored before being given to the sheriff.

4 "If the supervisor feels that any part of the
5 social correspondence should be called to the
6 specific attention of the sheriff or, in his absence,
7 the Chief Deputy, he shall do this immediately so as
8 not to hold this mail longer than necessary.

9 "After the outgoing mail has been censored the
10 supervisor will place the date and his initials
11 under the envelope flap to denote that he has
12 censored it.

13 "After the supervisor has censored the incoming
14 mail he will place the date and his initials on the
15 face of the envelope.

16 "NOTE: This mail is extremely confidential and
17 the greatest of care must be exercised to make sure
18 it reaches its destination safely and securely.

19 "Approved by:

20 "William N. Morris, Jr.,

21 ~~_____~~
22 "Sheriff."

23 THE COURT: What is the number of that exhibit?

24 MR. LIVINGSTON: Trial Exhibit 26, Your Honor.

25 THE COURT: All right. Thank you.

BY MR. LIVINGSTON:

1 Q. You read, Inspector:

2 "This mail is extremely confidential and the
3 greatest of care must be exercised to make sure it
4 reaches its destination safely and securely."

5 Confidential to whom?

6 A. It has been a long time since that statement was
7 written. At the time it was written I don't remember. I
8 would say it was confidential at the time of the trial --
9 there was a great deal of publicity and so forth, and we
10 wanted to make sure it went where it was intended and not
11 fall in the hands of the press or people not authorized to
12 have it.

13 Q. You didn't mean it was confidential to the prisoner,
14 James Earl Ray, did you?

15 A. No, sir.

16 Q. You didn't think --

17 MR. HAILE: I object to him cross examining
18 his own witness.

19 THE COURT: I sustain the objection to the
20 last question as to what -- the line of questioning
21 that Mr. Livingston asked as did he mean it was
22 confidential to the prisoner. I think the witness
23 has already commented on what he thought it meant,
24 and will you go on to another question.

25 BY MR. LIVINGSTON:

1 Q. Did any of the letters written to Mr. Ray/either one
2 of his attorneys, or letters written by either one of the
3 attorneys to Mr. Ray, was that letter delivered into the
4 hands of the prosecution, Inspector?

5 A. I don't believe it was. I know that -- I don't think
6 they have any copies of it, and I really don't remember.

7 Q. Now, the policy statement No. 11 directs the officers
8 in custody there of Mr. Ray to deliver the mail to the
9 security section. That was the section you were in charge
10 of?

11 A. I am trying to remember. There were two sections.
12 I handled the internal section on the incarceration of him.
13 There was another section which handled security on the
14 outside, and I believe what we are talking about is two
15 different sections there.

16 Q. In paragraph 1 it reads:

17 "All mail for the occupant of 'A' Block,"
18 and that is James Earl Ray?

19 A. Right.

20 Q. It is still referred to as "A" Block?

21 A. That's right.

22 Q. It is referred to as "A" Block right now, is it not?

23 A. That's right.

24 Q. Still in existence to this day?

25 A. That's correct.

1 Q. It says:

2 "All mail for the occupant of 'A' Block
3 will be delivered to the Internal Security Section,
4 which has been organized to consolidate all security
5 functions, with the exception of the personal safety
6 of the 'A' Block occupant, needed to insure the
7 successful and uneventful trial of this individual."

8 Was this for security reasons that you intercepted
9 James Earl Ray's mail, Inspector?

10 A. That's right.

11 Q. Can you explain to us how this relates to security?

12 A. Are you talking about the incoming or outgoing?

13 Q. All of it.

14 A. The outgoing mail was checked to make sure there were
15 no diagrams or plans of escape, and so forth.

16 All letters coming in, they were checked to make sure
17 there were no plans or anything we could see where anyone
18 was trying to cause harm or aid in the escape of Ray. That's
19 why we checked them.

20 Q. That's all you checked them for?

21 A. That's right.

22 Q. Is that all you photostated?

23 A. We photographed all of the incoming with the exception
24 of -- I don't think the attorneys' letters were photostated.

25 Q. So you photostated -- well, the escape plans incoming

1 and outgoing, correct?

2 A. I believe I said we photostated the mail coming in,
3 yes, sir.

4 Q. And paragraph 2 says:

5 "All mail will be opened by Internal
6 Security Section personnel and personally taken
7 to Mr. Lloyd Rhodes, in the attorney general's
8 office. Mr. Rhodes will make photostats of all
9 letters and their envelopes. The mail is then
10 returned to the Internal Security personnel and
11 the photostats are filed in the attorney general's
12 office. Receipts are made in triplicate for all
13 monies received."

14 How does that relate to security, to deliver these
15 into the hands of the attorney general?

16 A. At the time these policy statements were written, that
17 was the purpose of them, and I am sure they were photostated
18 so they could be audited to see if there was anything in
19 them. I can't remember delivering these letters over there.
20 I can't remember whether it was the detail I was on, We had
21 a section that handled incoming mail and that was not me.

22 Q. You, of course, complied with policy statement No. 11?

23 A. Yes, sir, we complied with the statement.

24 Q. Did the district attorney general, or his staff, have
25 anything to do with security during the incarceration of

1 Mr. Ray in the Shelby County jail, Inspector?

2 A. I would say that, yes, sir, they were interested in
3 security, and I would say they probably had something to do
4 with it.

5 Q. Was it the sheriff of the county that was charged
6 with security?

7 A. Yes, sir, he was.

8 MR. HAILE: Your Honor, I object to this
9 cross examination of his witness.

10 THE COURT: I sustain the objection.

11 MR. HAILE: He doesn't seem to be able to
12 ask him anything but an objectionable question.

13 THE COURT: I sustain the objection. I will
14 take judicial notice that the sheriff was charged
15 with the security in the jail.

16 MR. LIVINGSTON: We would respectfully ask
17 Your Honor to make this man a court witness.

18 THE COURT: I don't know why -- I decline
19 to make him a court witness.

20 MR. LIVINGSTON: I respectfully ask Your
21 Honor to declare him a hostile witness.

22 THE COURT: I most emphatically decline to
23 declare him hostile.

24 BY MR. LIVINGSTON:

25 Q. Paragraph 3 reads:

1 "All mail is then turned over to the
2 lawyer (he has power-of-attorney) representing
3 the occupant of 'A' Block. He signs the receipt
4 forms for all money he receives. One copy of
5 the receipt form is given to the lawyer, one copy
6 for the occupant of 'A' Block, and one copy is
7 filed in the sheriff's office."

8 You complied with that?

9 A. Yes, I did.

10 Q. That this related to security, is it not, sir?

11 A. Yes, sir.

12 Q. All correspondence --

13 THE COURT: Mr. Livingston, we have had it
14 read once.

15 MR. LIVINGSTON: I just want his comments
16 on it.

17 THE COURT: If you are going to ask if he
18 complied with it, ask if he complied with the
19 whole thing. We don't have to go over it paragraph
20 by paragraph, and item and item.

21 MR. LIVINGSTON: We only have three more
22 paragraphs.

23 THE COURT: All right. Please don't read the
24 paragraphs. If you have any specific questions,
25 you may ask.

1 BY MR. LIVINGSTON:

2 Q. You completely and thoroughly complied with policy
3 statement No. 11, did you?

4 A. Yes, sir, I did.

5 Q. In every detail?

6 A. Yes, sir.

7 MR. LIVINGSTON: All right.

8 THE COURT: I see you have turned that back
9 to the clerk. Maybe this is a good time to break
10 up the morning. We will have to do that.

11 Make a note of the next line of questions.

12 Now, let me have a little session with the
13 marshals about the procedure.

14 I've arranged for Mr. Ray and his attorneys
15 to use the jury room, which is right there, and you
16 may go ahead.

17 The marshals can be attendance outside, but
18 if you attorneys and Mr. Ray will go ahead, I will
19 find out how we will get people back in and out.

20 Now, let me be sure about the marshal back
21 there.

22 Now, the plan that we have worked out for the
23 members of the press, as I understand, each one was
24 given a little card which you are to keep until the
25 end of the day. This is because some of the news

1 media are sending different people on different
2 days. We have enough places for you, and we have
3 assigned you a certain number for each organization.

4 Now, the spectator section is not crowded.
5 Have those people turned in their cards?

6 THE MARSHAL: As they come out they turn them
7 in, yes, sir.

8 THE COURT: All the spectators have them with
9 them?

10 THE MARSHAL: Yes, sir. If they don't leave
11 this area they can keep it, and if they leave this
12 area we will have to bring them back like we did
13 this morning.

14 THE COURT: If you intend to leave for a short
15 period even, turn in your passes. It doesn't look
16 like you will have any trouble getting back in. But
17 it is very important that we get these passes back.
18 We don't have an extra supply of them.

19 We will ask your cooperation, including the
20 news media.

21 Now, everybody from the news media, if you have
22 signed up, there will be a space for you as long as
23 the hearing is going on, and this includes whether
24 you get here late or early. It will probably take
25 a few minutes, probably fifteen minutes for this

1 crowd, and I will ask somebody to alert me.

2 Inspector, if you just bear with us.

3 You can take a recess, but don't discuss your
4 testimony with anybody during the recess, and we
5 will finish with you and let you go on your way
6 as soon as we can.

7 (Recess.)

8 THE COURT: All right. It will take a little
9 bit to get everybody back.

10 All right. Mr. Livingston, whenever you are
11 ready, you may continue.

12 BY MR. LIVINGSTON:

13 Q. Inspector Smith, I will hand you trial exhibit 43
14 and ask you to look at that and tell the court if you have
15 ever seen that, and if you recognize that?

16 A. I don't recognize it.

17 Q. You do not recognize it?

18 A. No, I do not.

19 Q. Well, at the second page there, tell the court if
20 you recognize that?

21 A. I don't remember seeing it, no, sir.

22 Q. The initials PMC appear on here. Do you know anyone
23 with the initials PMC?

24 A. I may know someone, but at the present time I can't
25 think of anyone with those initials. Let me see. One thing

1 I had seen was a copy of this before when the attorneys came
2 down, and I do not recall seeing the one prior to that.

3 Q. Can you think of anyone that might be connected with
4 the sheriff's office or the district attorney general's office
5 when Mr. James Earl Ray was incarcerated in the Shelby
6 County jail whose initials are PMC?

7 MR. HAILE: I think we can clear up the
8 mystery. It is Phil M. Canale, Your Honor.

9 THE COURT: I was about to help him myself.

10 BY MR. LIVINGSTON:

11 Q. You did know Phil M. Canale?

12 A. Yes, I know General Canale. I was trying to think of
13 all the people I know.

14 Q. Was this shown to you by both attorneys?

15 A. Yes, that's right.

16 Q. That's the first time you had seen it?

17 A. I am not saying that, Mr. Livingston. I am saying I
18 don't recall seeing it.

19 Q. The two guards that were in the cell continuously
20 with James Earl Ray during his incarceration at the Shelby
21 County jail reported to you at the end of every shift, did
22 they, Inspector?

23 A. No. They -- what they did, they wrote down in a
24 log an account of what had happened during the eight hours.

25 Q. Everything that happened?

1 A. Well, not everything. I will say an account of what
2 happened in there.

3 Q. Did the guards in the cell with James Earl Ray go
4 through the trash baskets and retrieve written material or
5 papers discarded?

6 A. That is a possibility.

7 Q. Do you know that it did happen or did not happen?

8 A. There were some notes that were delivered to me.
9 I don't remember how many or on the dates they were
10 delivered. Yes, there were some that were possibly retrieved
11 from the trash.

12 Q. Do you have any specific recollection of any notes
13 being retrieved by the guards from the trash cans --

14 MR. HAILE: Your Honor, I fail to see how
15 this is material. Does he claim his constitutional
16 rights not to have his garbage searched?

17 MR. LIVINGSTON: I might be. I am claiming it
18 is a violation of due process to retrieve things
19 from the prisoner's garbage can and be delivered
20 to the prosecution to be used against him when it
21 has nothing to do with security.

22 THE COURT: I overrule the objection.

23 BY MR. LIVINGSTON:

24 Q. Do you have any specific recollection of any paper
25 writings being retrieved from the garbage cans that might

1 have been enclosed in newspapers, Inspector?

2 A. I don't remember. Like I say, there could have been
3 the possibility. I was asked about that a couple of weeks
4 ago, and I don't remember it, but I guess it could have
5 happened.

6 Q. Did either of the guards ever deliver into your hands
7 written material that had been retrieved from the toilet
8 ~~over there before Mr. Ray could flush it?~~

9 A. That I do remember.

10 Q. Was there some reason for retrieving material from
11 the toilet, Inspector?

12 A. I am -- this material you are talking about was a
13 sketch, and we thought it was a sketch of "A" Block, and I
14 think some of the officers saw a glimpse of it and saw what
15 it was. And he threw it in the commode and they got it out.

16 Q. Did you have someone in the sewer to retrieve such
17 material if it did get down the commode, Inspector?

18 A. No, sir.

19 Q. Do you consider that a security measure, searching the
20 men's toilet over there?

21 THE COURT: I sustain that objection. It is
22 just a comment. Mr. Livingston, you may ask
23 questions.

24 BY MR. LIVINGSTON:

25 Q. Did you consider it a part of the security to retrieve

1 matters from the men's toilet?

2 MR. HAILE: He already said he did.

3 THE COURT: I sustain the objection.

4 BY MR. LIVINGSTON:

5 Q. Was written material retrieved by the guards from any
6 location other than the toilet or the waste baskets?

7 A. They could have. They have gotten them from the
8 newspaper. I don't remember any particular instances where
9 they happened.

10 Q. I will hand you Trial Exhibit 70 and ask you if you
11 have ever seen these paper writings, Inspector?

12 A. I don't remember seeing them, no, sir.

13 Q. Not even in the past several weeks?

14 A. No, sir. That wasn't among the ones they showed me.

15 Q. Was there, during the incarceration of Mr. Ray, a
16 guard in the cell with him by the name of Miller? Do you
17 have a specific recollection?

18 A. Yes, I did.

19 Q. Was he a member of the Memphis Police Department or
20 the Shelby County Sheriff's Department?

21 A. The Memphis Police Department.

22 Q. Do you know his first name?

23 A. I believe it was Eugene.

24 Q. At the time of the incarceration of Mr. Ray in the
25 Shelby County jail, was there one Captain Joe Cox working

1 with you in the internal security division?

2 A. That was the other division I was talking about
3 earlier. Joe Cox did handle a division of the security.

4 Q. Was he also under your command?

5 A. No, sir.

6 Q. He had another division?

7 A. Yes.

8 Q. Did you, at that time, or do you now know any person
9 connected with the Memphis Police Department or the district
10 attorney general's office or the Shelby County Sheriff's
11 Department whose initials would be ELH, Jr.?

12 A. Probably it would be E. L. Hutchison.

13 Q. What was his position?

14 A. He is with the attorney general's office, one of the
15 criminal investigators.

16 Q. Was he the investigator with the attorney general's
17 office?

18 A. That's right.

19 Q. Is he still an investigator with the attorney
20 general's office?

21 A. That's right.

22 Q. E. L. Hutchison, Jr.?

23 A. I believe in '68, though, he was in our office. He
24 went from our office over to the attorney general's office,
25 but I can't remember what year it was.

1 Q. Did you, at that time, know one assistant district
2 attorney general by the name of E. L. Shelton, Jr.?

3 A. I don't remember him.

4 Q. I will hand you what has been marked Trial Exhibit
5 31 and ask you if you have ever seen that paper writing,
6 Inspector?

7 A. I don't remember the paper, Mr. Livingston, no, sir.

8 Q. At the time of the incarceration of James Earl Ray
9 in the Shelby County jail, did you have working under you
10 one J. R. Wieckert?

11 A. That's correct.

12 Q. What was his position?

13 A. He was one of the deputies that stayed inside the
14 cell block.

15 Q. Did you have working under you someone named J. W.
16 Hall?

17 A. That's correct.

18 Q. What was his position?

19 A. The same as Mr. Weickert.

20 Q. I will hand you what has been marked Exhibit 44,
21 Inspector, a three-page writing, and ask you if you have
22 ever seen these paper writings or the originals thereof?

23 A. Yes, sir, I have.

24 Q. What are those writings?

25 A. This is a list of the visitors that Ray had while he

1 was in the Shelby County jail.

2 Q. Is this complete and accurate?

3 A. As far as I know, yes, sir.

4 Q. This pertains only to James Earl Ray, no other
5 prisoner, doesn't it?

6 A. That's correct.

7 Q. You kept a special log or logs for Mr. Ray?

8 A. Yes, sir, I did.

9 Q. He was afforded highly specialized treatment in the
10 Shelby County jail, wasn't he?

11 A. That's correct.

12 Q. In your many years of experience as a law enforcement
13 officer, in your memory, do you ever recall a prisoner being
14 treated so highly specialized as Mr. Ray in the Shelby
15 County jail?

16 A. No, sir.

17 Q. Do you recall a prisoner ever being surveilled in the
18 Shelby County jail as Mr. Ray was?

19 A. No, sir.

20 Q. Do you recall a prisoner having his mail censored,
21 gathered and delivered into the hands of the prosecution, as
22 Mr. Ray had his mail?

23 A. No, sir.

24 Q. I will hand you what has been marked Trial Exhibit
25 45, and ask you if you have seen those papers and if you can

1 identify those?

2 A. Yes, sir, I can.

3 Q. What is that?

4 A. This is a list of the incoming mail that Ray received.

5 Q. Does it pertain only to the prisoner, James Earl Ray?

6 A. Yes, sir.

7 MR. HAILE: Your Honor, we stipulated all
8 these exhibits yesterday, that No. 44 is an
9 accurate copy of the jail log and 45 of the
10 incoming correspondence log, and I guess he will
11 get to 46 next. I don't see any reason for this
12 log being read in questioning.

13 THE COURT: Well, of course, these exhibits
14 will have to be called to the court's attention
15 at some time. I don't think you need to --

16 MR. LIVINGSTON: I was calling them to the
17 court's attention. That's why I was asking about
18 them.

19 THE COURT: If there is no objection to them --

20 MR. LIVINGSTON: I was just calling it to
21 Your Honor's attention like you requested we do.

22 THE COURT: I don't think you have to ask
23 if it pertained just to James Earl Ray. Wasn't
24 that agreed upon?

25 MR. LIVINGSTON: Well, all right.

1 THE COURT: Go ahead, Mr. Livingston.

2 If you want to get him to identify the exhibits,
3 let's get him to do it while he is here, and we
4 will give you an opportunity to talk about them
5 later.

6 MR. LIVINGSTON: I just want to bring it to
7 the court's attention.

8 THE COURT: All right. Fine.

9 MR. LIVINGSTON: If I was over-zealous in
10 doing so, I apologize.

11 THE COURT: All right.

12 BY MR. LIVINGSTON:

13 Q. Inspector, I will hand you Trial Exhibit 46. Can you
14 identify that?

15 A. Yes, sir. That is the outgoing mail that Ray wrote.

16 Q. I will hand you that which has been marked Trial
17 Exhibit 67 and ask you if you can identify that?

18 A. I don't remember that one.

19 Q. You don't remember that one?

20 A. No, sir.

21 Q. I will hand you that which has been marked Trial
22 Exhibit 68 and ask you if you can identify that?

23 A. That looks like the sketch that we got out of the
24 commode.

25 Q. And that's the escape map that came out of the toilet,

1 A. That's correct.

2 MR. HAILE: I think in all fairness to the
3 court he ought to point out that it is an escape
4 map.

5 THE COURT: Well, let me see it and let me
6 decide what it is. Is it stipulated that it is an
7 escape map?

8 MR. LIVINGSTON: No, sir, I don't recall that.

9 MR. FENSTERWALD: Your Honor, it is stipulated
10 that was a paper drawn for Mr. William Bradford Huie
11 showing an escape from the Missouri prison several
12 years before.

13 MR. LIVINGSTON: Here, Your Honor can take
14 a look at it. It has nothing to do with the Shelby
15 County jail.

16 (Document passed to the court.)

17 THE COURT: All right.

18 It is already admitted as an exhibit, and the
19 witness has been asked and he has given his testimony
20 about it.

21 All right. Go ahead.

22 BY MR. LIVINGSTON:

23 Q. Inspector, you considered this to be an escape map?

24 A. No, sir, not for the jail.

25 Q. Not for the county jail?

1 A. That's right.

2 Q. Was this delivered into the hands of the prosecution?

3 A. The best I remember on that we gave it back to Mr. Ray
4 and he gave it to one of his attorneys, either Mr. Foreman
5 or Mr. Hanes at the time.

6 It was torn up. We put it back together, and we may
7 have copied it and given it to the attorney general. I am
8 not sure, but we probably did.

9 Q. I will ask you if you can identify Trial Exhibit 69?

10 THE COURT: What was the number, please?

11 MR. LIVINGSTON: 69, Your Honor.

12 THE COURT: All right.

13 THE WITNESS: I don't remember the letter,
14 itself, but I do remember that while Ray was in
15 jail he was using an electric razor, and he did
16 ask for a safety razor. That has been six years
17 ago, and I also probably know of these letters I
18 saw before, but I don't recall them.

19 BY MR. LIVINGSTON:

20 Q. Was there a person by the name of S. B. Scott working
21 under your command?

22 A. Yes, there was.

23 Q. Who is he?

24 A. One of the deputies of the sheriff's department.

25 Q. Did S. B. Scott at any time deliver any written

1 material recovered from Mr. Ray or his cell into your hands?

2 A. He probably did.

3 Q. You have no specific recollection?

4 A. No, no specific recollection. I am sure he did over
5 the period of time he was over there.

6 Q. You have no specific recollection of what that written
7 material might have been?

8 A. No, sir, I don't.

9 Q. Do you have any specific recollection of that material
10 which was delivered into your hands by the guards being
11 delivered into the hands of the prosecution staff?

12 A. It probably was sent over there, yes, sir.

13 THE COURT: Mr. Livingston, that's one of
14 the exhibits admitted only for identification.

15 MR. LIVINGSTON: I didn't realize that,
16 Judge.

17 THE COURT: I don't know if you intend to
18 introduce it through this witness or not.

19 MR. LIVINGSTON: I can't. He says he has
20 never seen it before. I do apologize to the court.

21 THE COURT: That's all right. If he could
22 identify it you would be in good shape.

23 MR. LIVINGSTON: Yes, sir, the same as these
24 others I am stacking up over here.

25 THE COURT: All right.

1 BY MR. LIVINGSTON:

2 Q. Inspector, I will hand you that which has been marked
3 Trial Exhibit 64 and ask you if you can identify that, sir?

4 A. I do know that he did write to J. B. Stoner while he
5 was over there in the jail. I don't remember whether I
6 saw it.

7 Q. Do you have a specific recollection of him correspond-
8 ing with Mr. J. B. Stoner?

9 A. Yes, sir, I do.

10 Q. Do you know who Mr. J. B. Stoner is or was?

11 A. I understand he is an attorney.

12 MR. LIVINGSTON: This is Trial Exhibit 64.

13 THE COURT: Yes, I have a copy of the list
14 here. Is this the way you want to call it to the
15 court's attention?

16 MR. LIVINGSTON: That's what I am attempting
17 to do.

18 THE COURT: Do you want me to read it?

19 MR. LIVINGSTON: Well, for the benefit of all
20 I will read it now.

21 THE COURT: Fine. Go ahead.

22 MR. LIVINGSTON: This is Trial Exhibit 64
23 dated August 9, 1968, and it reads:

24 "Dear Mr. Stoner:

25 "Thanks for your letter of August 7. I did ask

1 my brother to contact you in regards to a libel
2 suit, but I didn't have time to give him any
3 details as he was only permitted to visit me about
4 ten or fifteen minutes. I have been having trouble
5 seeing anybody but Mr. Hanes, but am now in the
6 process of getting a court order to have one of
7 my brothers see me on the libel matter. As soon as
8 I talk to him I will explain everything to him and
9 he can come and see you as I don't want to write
10 everything to you. If for reason they won't permit
11 me to see him, I will write you, and you can try to
12 see me. The above action will take about a week.
13 As soon as I find out what the situation is I will
14 write or have my brother see you.

15 "Sincerely,

16 "James E. Ray."

17 MR. HAILE: I think the date on the letter
18 is wrong on the letter. He seems to have gotten
19 a reply on the 7th.

20 MR. LIVINGSTON: That's from efficient mail
21 handling, I believe, Judge.

22 Q. I will hand you Trial Exhibit 30-B and ask you if you
23 can identify that?

24 A. I remember when Mr. Ray wrote Judge Battle a letter on
25 this, and this looks like the one I saw.

1 Q. Was this delivered into the hands of the prosecution,
2 Inspector?

3 A. I am sure a copy of it was.

4 MR. LIVINGSTON: I ask permission to read it
5 to the court.

6 THE COURT: All right, Mr. Livingston, go
7 ahead.

8 MR. LIVINGSTON: It reads:

9 "Dear Sir:

10 "I would like to respectfully call your Honor's
11 attention to three articles written about me since
12 you issued your order against publicity in the
13 instant case. One article is in the August issue
14 of the Reader's Digest by Mr. Jeremiah O'Leary.
15 I am sure you would agree that this article could
16 not have been written without the assistance of
17 someone in the Justice Department.

18 "The other is a picture of me in a late edition
19 of a tabloid called the Inquirer. This is a typical
20 picture which the law authorities have been releasing
21 of me. In this instance the picture was taken and
22 released by the Shelby County Sheriff's Office. It
23 shows me manacled up, a bullet-proof vest on, and
24 looking like I just been pulled out of the river.
25 The accompanying story does not relate to me.

1 "The third story came out in Wednesday's
2 Commercial Appeal, the 12th of September, by
3 Mr. William Bradford Huie. I think almost anyone
4 reading between the lines would interpret this
5 article as meaning the only thing I am interested
6 in is money and in my greed for it I am going to
7 really expose someone or organization such as was
8 mentioned in the newspaper article. I would like
9 to say for the record, both public and private,
10 I don't know anyone to expose, and I want to
11 disassociate myself from this article.

12 "I have relayed to Mr. Huie that I would tell
13 him where I had been and what I had done and that's
14 all. That I didn't care what he wrote, but not to
15 quote me. Also, I certainly didn't ask for the
16 article or any other pretrial statements from
17 Mr. Huie.

18 "I realize Your Honor does not have jurisdic-
19 tion over national publications like the Digest, but
20 I would think so in the picture release and the
21 Huie release. I have said nothing since I arrived
22 here, thinking these stories would stop until after
23 the trial, but apparently they are not. Therefore,
24 in the near future I am going to have an attorney
25 file some libel suits, and contradict some of the

1 outright lies.

2 "I am also sending these stories and pictures
3 to the ethical committee of the ABA. I believe if
4 these type of articles don't stop, I might as well
5 waive the trial and come over and get sentenced.

6 "I realize that Mr. Hanes should bring this
7 up, but I think under the circumstances I had to. . .

8 "I am also writing him today about this matter."
9 And that is signed, "Sincerely, James Earl Ray."

10 Q. I will hand you that which has been marked Trial
11 Exhibit 27, Inspector, and ask you if you can identify that,
12 please, sir?

13 A. Yes, I can.

14 Q. What is that?

15 A. An index of the policy statements we wrote surrounding
16 the security of the incarceration of James Earl Ray.

17 MR. LIVINGSTON: I would ask permission to
18 read Exhibit 27.

19 THE COURT: All right.

20 MR. LIVINGSTON: (Reading)

21 "Shelby County Sheriff's Department

22 "Criminal Courts Building

23 "Memphis, Tennessee

24 "Policy Statement Title

25 1 Individuals approved to
Enter 'A' Block

1	<u>"Policy Statement</u>	<u>Title</u>
2	2	Receiving the occupant of 'A' Block
3	3	Conditions 'Green,' 'Yellow,' and 'Red'
4	4	Supervision of 'A' Block occupant
5	5	Feeding of occupant of and employees on 'A' Block
6	6	Personal hygiene
7	7	Sanitation - 'A' Block
8	8	Reading and Recreation
9	9	Commissary - 'A' Block
10	10	Legal Material
11	11	Correspondence
12	12	Medical Attention
13	13	Personal Property
14	14	Attorneys for general population - third floor
15	15	Visiting Regulations 'A' Block
16	16	Clothing for court appearances
17	17	Movement of 'A' Block occupant to court room
18	18	Control of restricted keys - keys for 'A' Block and adjacent areas
19	19	Servicing of air conditioning units on the third story roof on the north side of the jail
20	20	Emergency Procedures
21	21	Emergency equipment stored in 'A' Block
22		
23		
24		
25		

1	<u>"Policy Statement Title</u>	
2	22	Officers on duty on third floor
3	23	Change of clothing and personal appearance for personnel assigned to 'A' Block
4		
5	24	Records and reports - 'A' Block

6

7" Miscellaneous Instructions - Section 25

8" 'A' Block Security Check List

9" Main Floor Check List - Condition 'Red'

10" Third Floor Check List - Condition 'Red'

11" Third Floor Check List - Condition 'Yellow'

12" Fourth and Fifth Floors Check list - Condition 'Red'

13" Non-movement of 'A' block occupant

14" Fourth and Fifth Floors Check List - Condition 'Red'

15" Movement of 'A' Block occupant

16" Policy Statement Signature Sheet."

17 Q. What recreation did Mr. Ray have?

18 A. Play cards and watch t.v.

19 Q. Play cards with whom?

20 A. The guards in the block.

21 Q. Who were the individuals approved to enter "A" Block?

22 A. At what time?

23 Q. At the time of the incarceration of Mr. James Earl

24 Ray in the Shelby County jail.

25 A. There were different people at different times.

1 When the people -- when it started out it was
2 Mr. Hanes, his attorney of record, and later on he changed
3 attorneys and Mr. Foreman was put on the list.

4 The sheriff, the chief deputy and other authorized
5 members of the Shelby County Sheriff's Department we were
6 talking about.

7 Q. Any members of the district attorney's staff?

8 A. No, sir.

9 Q. In Policy No. 2, receiving the occupant of "A" Block,
10 would you elaborate somewhat on that?

11 A. That was six years ago. I have not looked at these
12 policy statements since then. The receiving of the occupant
13 dealt with the security when Ray came in, which way he
14 was coming in, and where our guards would be posted.

15 Q. What did conditions green mean?

16 A. That was different conditions that we had set up
17 inside the jail. The green condition meant Ray was secured
18 in the block and the doors were locked.

19 The other conditions, when we started opening this
20 block up, we locked the other prisoners up and took other
21 precautions.

22 Q. What did condition yellow mean?

23 A. The condition of yellow, the best I remember, was
24 when we had other people, attorneys or visitors or other
25 people on the third floor.

1 Q. What did condition red mean?

2 A. That's what I just told you, the red meant we locked
3 everyone up and there was no movement in the jail when we
4 opened "A" Block up.

5 Q. The one entitled supervision of "A" block occupant,
6 could you tell us what that meant?

7 A. The best I remember on the supervision, that was
8 pertaining to the deputies or police officers assigned to the
9 block, and the supervisory officers outside of the block.

10 Q. The one entitled feeding of the occupant and employees
11 of "A" Block, how was Mr. James Earl Ray furnished his meals?

12 A. We fed him and the two officers in the block the same
13 type of food. What we did, we took a stainless steel box
14 with a lock on it; either myself or one of the supervisors
15 would go to the kitchen in the jail and get food, pick parts
16 of the food from different locations; some of it might be
17 prison food and some might be employee food, or something
18 like that.

19 The food was put inside the stainless steel box.
20 The box was locked, and the key was kept inside the block,
21 and it could not be opened until it got inside the cell block.

22 Q. Why was it put inside the locked box?

23 A. To make sure no one put any type poison or anything
24 in the food while it was being transported up to the block.

25 Q. You mean jail employees?

1 A. Well, prisoners, too. There were prisoners, too,
2 enroute from the kitchen up there, and several people that
3 could have the opportunity to do something like this.

4 Q. You listed legal material. Was Mr. Ray permitted to
5 have legal material?

6 A. Yes, he had some in there I am sure.

7 Q. Sir?

8 A. I told you, Mr. Livingston, I didn't read the content
9 of each of these statements. It has been a long time ago.

10 Q. Medical attention, what medical attention did
11 Mr. Ray receive in the Shelby County jail?

12 A. He was examined by Dr. DeMere when he came in, and he
13 was x-rayed, and Dr. DeMere saw him on occasions when he
14 was there, if he complained of feeling bad. And I believe
15 he also made some periodic checks on him.

16 Q. Dr. DeMere visited him quite often, didn't he?

17 A. I don't remember how many times he came in,
18 Mr. Livingston. I know he gave him a complete physical when
19 he came in. I remember one occasion Ray complained of being
20 sick, and Dr. DeMere came and prescribed some medicine for
21 him. I don't remember how many other times, but I am sure
22 there were others.

23 Q. Do you recall Dr. DeMere paying a social call on
24 Ray just to chat?

25 A. When Dr. DeMere came to the block or advised he was

1 coming for medical attention, I didn't question what he said
2 while he was in the block.

3 Q. Do you know Robert K. Dwyer?

4 A. Yes, sir.

5 Q. What was his position at that time?

6 A. He was with the attorney general's office.

7 Q. Do you know John Dwyer?

8 A. Yes, sir.

9 Q. Who is John Dwyer?

10 A. That is Mr. Dwyer's brother.

11 Q. Do you know John Dwyer's wife?

12 A. No, sir, I don't.

13 Q. Have you ever met her?

14 A. I may have. I don't remember if I have.

15 MR. HAILE: I fail to see the relevance
16 of this.

17 MR. LIVINGSTON: I think I can develop that.

18 THE COURT: Well, if this witness doesn't
19 know.

20 BY MR. LIVINGSTON:

21 Q. Do you have any knowledge of John Dwyer, the brother
22 of Robert K. Dwyer, was married to at the time?

23 A. No, I am not familiar with his personal life.

24 I assume you mean the former city commissioner.

25 Q. Yes.

1 A. I know him, but I am not familiar with his personal
2 life at all.

3 Q. Did you ever have personal knowledge that the wife
4 of ~~John Dwyer is the sister of Dr. DeMere?~~

5 A. No, sir, I told you I didn't know who his wife was.

6 Q. And those lists of policy statements and index
7 I notice that it does not cover anything about surveillance.
8 Did you have a separate policy statement pertaining to
9 electronic surveillance?

10 A. No, sir. Those are all of the policy statements that
11 we had.

12 Q. Now, there was ~~electrical surveillance inside of the~~
13 ~~cell, the sealed cell?~~

14 A. Yes, that's correct.

15 Q. I believe you said two closed circuit t.v. cameras?

16 A. That's right.

17 Q. Were video tapes made and preserved, Inspector?

18 A. You mean by use of the camera?

19 Q. Yes, sir.

20 A. No, sir.

21 Q. Were there microphones in the sealed cell, Inspector?

22 A. There was one microphone.

23 Q. Was it hanging on a wire from the ceiling of the
24 sealed cell?

25 A. No, sir.

1 Q. Where was it?

2 A. It was mounted under the camera on the north side of
3 the block.

4 Q. In obvious view?

5 A. Yes, sir.

6 Q. Could the microphone be turned off from within the
7 cell?

8 A. No, sir.

9 Q. Where would one go to turn off this microphone?

10 A. In an office on the third floor of the county jail.

11 Q. In an office?

12 A. That's right.

13 Q. What was in this office other than a switch to turn
14 off the microphone?

15 A. The amplifier and two t.v. monitors.

16 Q. Who was permitted to view those two t.v. monitors in
17 this office?

18 A. Myself and the people assigned to my detail.

19 Q. Did any member of the prosecution staff ever come and
20 view those monitors?

21 A. None to my knowledge.

22 Q. In this office was contained two t.v. monitors and
23 a switch connected to the microphone, and did you have tape
24 recorders, Inspector?

25 A. No, sir.

1 Q. Who was in the other end of the microphone?

2 A. You mean who -- the microphone was in "A" block.

3 Q. I mean what is the person -- the microphone comes in
4 for someone with earphones or tape recorder?

5 A. There was a speaker in the office.

6 Q. Where was your office? On the third floor?

7 A. Yes, sir.

8 Q. This is the office we are talking about with the two
9 monitors and the switch?

10 A. Right.

11 Q. That only you and your personnel were admitted to?

12 A. That's right.

13 Q. You did not work twenty-four hours a day, seven days
14 a week, did you?

15 A. No, sir, I did not.

16 Q. Do you specifically recall who might have been on duty
17 there the nights of you being off?

18 A. I had a supervisor on each shift, plus my two deputies.

19 Q. Can you recall their names?

20 A. I don't think I can call all of them, but some of
21 them certainly.

22 Q. Would you recall all of those that you are able to
23 recall?

24 A. From the sheriff's department we had Cliff Ballard.

25 I had S. B. Scott, J. W. Hall, L. L. Summers, William DuFord,

1 an officer named Hartline, and I had a deputy named Lincoln,
2 who is no longer with us, and Clyde Bonds, who is no longer
3 with us.

4 And from the city I had Wilson, Wieckert, Miller,
5 Hudson --

6 MR. HAILE: Your Honor, unless I am mistaken,
7 those names are all in the log.

8 THE WITNESS: Yes, they are all in the log.
9 I don't recall all, but I know in the city I
10 started out with fourteen men and eight county and
11 six city, and we changed some of the people, some
12 were changed over. All the names are in the logs
13 of all the people that were in the block.

14 BY MR. LIVINGSTON:

15 Q. Did you have one officer named Larry Franks from the
16 Memphis Police Department?

17 A. I didn't remember, but when I looked in the log, yes,
18 he was there.

19 Q. All of your logs are complete and accurate, are they,
20 Inspector?

21 A. What do you mean by complete?

22 Q. Complete and accurate as to pertaining to James Earl
23 Ray?

24 A. My logs are complete as far as the officers record
25 in there. They cover eight hours with two officers. I still

1 have them, and, yes.

2 Q. Were there any t.v. monitors elsewhere in the building,
3 Inspector, other than the two there in your office?

4 A. Yes, sir.

5 Q. Where were they?

6 A. In the sheriff's office.

7 Q. How many?

8 A. I believe the best I remember there was one monitor
9 with a switch that would show both cameras.

10 Q. Was there a switch in the high sheriff's office that
11 would turn off the microphone, Inspector?

12 A. He could not control the amplifier from his office.

13 Q. Could he flip the switch and turn off the microphone?

14 A. No, he could turn off the sound on the t.v., but I
15 was the only one that could turn off the amplifier.

16 Q. Did he not have an amplifier in his office?

17 A. No, sir. We had just one master amplifier.

18 Q. Do you have any specific recollection of why Sheriff
19 William N. Morris, Jr. permitted people to come by his office
20 and view the t.v. monitors of Mr. Ray in that sealed cell?

21 A. I can't speak for the sheriff.

22 Q. Were you ever present on such an occasion?

23 A. I don't remember it if I was.

24 Q. The guards inside of this special cell, you said they
25 played cards with Mr. Ray?

1 A. That's correct.

2 Q. Were you ever present when they engaged in a lengthy
3 conversation with him about this case?

4 A. No, sir.

5 Q. Did you attempt to talk to Mr. Ray about this case?

6 A. No, sir.

7 Q. Do you have any specific recollection of any member
8 of the sheriff's department or the district attorney staff
9 attempting to discuss this case with Mr. Ray in that sealed
10 cell?

11 A. Not to my knowledge.

12 Q. Is there anything at all that you or staff overlooked
13 or missed over there during the incarceration of Mr. Ray by
14 way of surveillance, and so forth?

15 A. I thought we had a good security as far as I was
16 concerned and it was handled properly.

17 Q. Set up by the federal government?

18 A. Set up by the sheriff's department assisted by the
19 Federal Bureau of Prisons.

20 Q. Did any defense lawyer who represented Mr. James Earl
21 Ray at the time ever come to you or to your knowledge the
22 sheriff or to your knowledge the judge of the court and
23 make any complaint or take any action concerning this
24 external security?

25 A. Yes, sir.

1 Q. Who did?

2 A. I believe Mr. Hanes filed some motion on our security.

3 I don't know if Mr. Foreman did or not.

4 Q. Did you testify in that hearing before Judge Battle?

5 A. Yes, sir, I did.

6 Q. Do you recall Judge Battle ruling on the microphones
7 in that hearing, Inspector?

8 A. I don't recall.

9 Q. Were you present in the court room when Sheriff
10 William N. Morris, Jr. testified?

11 A. I am sure I was out when he testified in the same
12 hearing. I am sure I was outside.

13 Q. Do you recall if you testified before or after the
14 sheriff?

15 A. I do not. I believe he testified after. I do remember
16 testifying, but I do not remember what the order of the wit-
17 nesses were.

18 Q. Was it your sole testimony at that hearing that when
19 the attorneys for Mr. Ray entered the sealed cell that the
20 microphone was turned off?

21 A. That is true.

22 Q. Was it turned off, Inspector?

23 A. Yes, sir. I turned it off personally every time one
24 of Ray's attorneys visited, and stayed by the amplifier until
25 he left.

1 Q. Do you ever recall witnessing a set of defense
2 attorneys lying on their stomachs with Mr. James Earl Ray
3 lying on his stomach, head to head, conferring in that
4 sealed cell, Inspector?

5 A. No, sir, I never did.

6 Q. Do you ever recall water being turned on, water running,
7 at any time either of the attorneys of Mr. Ray happened to
8 be in this cell conferring with him?

9 A. That's not -- no, sir.

10 Q. What did you start to say?

11 A. I read the same book you read. That's not true.

12 Q. It just didn't happen?

13 A. No, sir. We had a card table in there and they sat
14 down in chairs and they conferred at the table.

15 Q. Do you recall who wrote that book you referred to?

16 A. I believe Mr. Frank.

17 Q. "An American Death," was that the title?

18 A. Something like that.

19 Q. Did you read the book written on this subject,
20 Inspector?

21 A. No, sir, I haven't.

22 Q. Have you read the work entitled "Frame-up"?

23 A. No, sir.

24 Q. Have you read the work entitled "He Slew the Dreamer"?

25 A. No, sir, I have not.

1 Q. You concentrated only on Mr. Frank?

2 A. That's the only one the library had close to me.

3 Q. Do you recall the discovery orders of this Honorable
4 Court invoked on you, do you, Inspector?

5 A. Yes, sir.

6 Q. Have you shown and delivered to us everything covered
7 by the discovery orders of this court?

8 A. Yes, sir.

9 Q. Can you give us a reason why there was no policy
10 statement pertaining to electronic surveillance, Inspector?

11 A. Mr. Livingston, I am not sure it is not included in
12 the policy statements you were reading.

13 I don't recall exactly what is in those, but those
14 publicity, it might be included in some of them. That's the
15 only policy statements we had.

16 Q. Did you have unlimited authority and unlimited range
17 as chief of security as it pertained to electronic surveil-
18 lance, t.v. or microphone amplifiers?

19 A. I don't understand.

20 Q. Did the sheriff give you full control over the
21 electronic surveillance, and you were under the supervision
22 of no one; was that the policy?

23 A. The policy was that the t.v. cameras stayed on twenty-
24 four hours. The microphone stayed on all the time except
25 when the attorneys were in the block.

1 That's the only policy on the surveillance.

2 Q. When Mr. James Earl Ray was removed from this sealed
3 cell did you, as officer in charge of security, make any
4 modification in that cell after he was removed and sent to
5 the state penitentiary in Nashville?

6 A. At the time he was moved there was no modification
7 made.

8 Later on the t.v. camera quit working and they are
9 now there. The microphone has been out quite some time, too.

10 Q. Taken out since this court ordered them taken out?

11 A. No, sir. They were taken out some time ago, probably
12 a year ago.

13 Q. But the t.v. and microphone you permitted them to
14 continue operating on other prisoners after Mr. Ray was
15 removed?

16 A. Yes.

17 Q. Why?

18 A. For security purposes.

19 Q. Have you used this sealed cell as a punishment cell
20 in the last five years and some odd months, Inspector?

21 A. We have no area of the jail which is set aside for
22 punishment sections.

23 Q. "A" block is your most secured cell?

24 A. Yes, sir.

25 Q. Do you put prisoners in "A" tank when there is, in

1 your opinion, some infraction of the jail rules?

2 MR. HAYNES: I object to this. I see no
3 relevance as to his guilty plea.

4 MR. LIVINGSTON: The relevance is that they
5 considered it sufficient punishment just to put
6 a man in it if he violated the rules, and this man
7 was forced to stay in that cell for nine months,
8 which goes to the plea of guilty. Since he was under
9 this stress he couldn't render a rational decision.

10 THE COURT: I don't mean to imply the court has
11 made up its mind on this, but the witness testified
12 that the cell block was modified in anticipation of
13 Mr. Ray, and we certainly have records on what went
14 on in there, and I sustain the objection as to what
15 has been done with it since that time. It is not
16 relevant to the issue. I believe that is depriving
17 counsel of going into what went on while Mr. Ray
18 was there.

19 MR. LIVINGSTON: Your Honor, then the point
20 I am trying to make is that they considered the
21 cell sufficient punishment just to put a prisoner
22 there in it after Mr. Ray had been removed from it,
23 without having to do anything in addition to it.

24 THE COURT: Well, I sustained the objection
25 for the reasons I have stated.

1 Mr. Livingston, how many more pages do you
2 have there? I think we better stop for a while
3 now.

4 MR. LIVINGSTON: Well, I have several pages.

5 THE COURT: Well, we better try to keep some
6 semblance of our regular hours.

7 MR. LESAR: Could I request that Inspector
8 Smith bring with him the entire log book this
9 afternoon?

10 THE COURT: Is that any problem?

11 THE WITNESS: No. I can bring that. Do you
12 want any particular one?

13 MR. LESAR: Not the visits and mere rules,
14 but the one that records every fifteen or twenty
15 minutes what the guards reported back.

16 In addition to that, if you can bring that
17 volume of rules and procedures along.

18 Now, there may be more than one volume.

19 THE WITNESS: I have five.

20 MR. LESAR: Could you bring all five of those?

21 MR. HAILE: I wonder if counsel can save the
22 court's time.

23 They implied very strongly there is no portions
24 on electronic surveillance in that policy, and we
25 have no objection to putting the whole thing in.

1 MR. LESAR: Your Honor, the situation is,
2 when we were trying to complete our discovery
3 we were very pressed for time, and initially the
4 statements in that manual were withheld from us,
5 and we had to get a further ruling from the court.
6 And we got a chance when we went down here to
7 briefly look at it and get a copy of the index.
8 It is the index which contains no reference to
9 electronic surveillance.

10 THE COURT: All right.

11 MR. HAILE: Well, go ahead.

12 THE COURT: Suppose we -- I believe we
13 better adjourn until 2:00 o'clock.

14 Could you come back at 1:45 and, Mr. Lesar,
15 could you be here and look at that and save some
16 time?

17 I hope when you get that book you want, we
18 won't go over it again.

19 MR. LESAR: No. We have no interest in doing
20 that.

21 THE COURT: I certainly don't want to go through
22 it all again.

23 MR. LESAR: No. We have no thought of doing
24 that.

25 THE COURT: With this size crowd we better take