Typed: 8/13/69
WW:RAH:ehd
129-11

August 15, 1969

Honorable Clark MacGregor
House of Representatives
Washington, D. C.

Dear Congressman:

The Attorney General has asked me to respond to your communication of August 5, 1969 enclosing a copy of a letter from [redacted] who expresses doubt relative to the findings of the Warren Commission.

7C

RAH 8/13

The authors who have criticized the conclusions of the Warren Commission do not claim to have any significant new evidence, so far as we are aware. Rather, their criticisms and demands for a new inquiry are based upon different conclusions they have drawn from parts of the same body of evidence that was examined by the Commission. The Commission made a thorough inquiry and detailed analysis of the facts concerning the assassination. The evidence amply supports the basic conclusions of the Commission. In these circumstances, we see no basis for a new inquiry.

Your enclosure is returned herewith.

Sincerely,

WILL WILSON
Assistant Attorney General

Enclosure

Records
Chrono
Hennagin
Mr. Wilson
Deputy AG

1240

PLEASE EXPEDITE

THIS MAIL SHOULD B

ANSWERED WITHIN 48 HOURS

Receipt was acknowledged 8-8-69

Correspondence Section
Records Administration Office
Administrative Division

Clark MacGregor
M.C.

Congress of the United States
House of Representatives
Washington, D.C. 20515

OFFICIAL BUSINESS

Honorable John N. Mitchell
Attorney General
Department of Justice
Constitution Avenue and Tenth Street, NW
Washington, D. C. 20530

Congress of the United States

House of Representatives

Washington, D.C.

August 5 1969

Honorable John N. Mitchell
Attorney General
Department of Justice

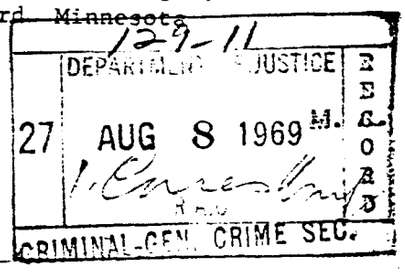
Sir:

The attached communication is sent for your consideration.

Please investigate the statements contained therein and forward me the necessary information for reply, returning the enclosed correspondence with your answer.

Yours truly,

Clark MacGregor, M. C.
3rd Minnesota



RECEIVED
AUG 8 1969
CRIMINAL DIVISION

June 26, 1969

Congressman Clark MacGregor
United States House of Representatives
Washington, D.C.

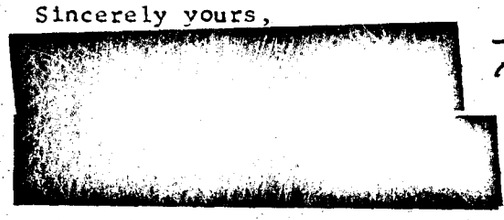
Dear Congressman MacGregor:

I feel very strongly that the American Public has been done a grave injustice by not being given the whole truth about the assassination of the late President John Fitzgerald Kennedy.

The story that I have been told and lead to believe throughout the many years since the assassination of our president in 1963, is that Lee Harvey Oswald was the lone assassin. After attending a presentation by Gary Schroener in which he pointed out many discrepencies and internal contradictions in the Warren Commission Report, I feel there is not substantial evidence to prove this and that I would not like such information to be handed down to further generations on just the facts presented. I also feel that as an American Citizen, I have the right to the truth---but how do I get it.

My question is, what exactly can I do to make my feelings known not only to myself but to others like you. I would appreciate any information or suggestions that would be helpful in furthering the cause of reopening the investigation.

Sincerely yours,



7C

7C

T. 8/18/69
WW:RAH:cad
129-11

August 21, 1969

Honorable Gilbert Gude
House of Representatives
Washington, D. C.

Dear Congressman:

The Attorney General has asked me to respond to your communication of August 4, 1969 transmitting a letter from [redacted] 7C who expresses concern with Congressman Adam Clayton Powell's allegations that many influential people in our Federal Government are aware of errors in the Warren Commission report and are keeping their information secret.

The Department of Justice is not aware of any information which would cause us to question the conclusions of the Warren Commission. The authors who have criticized those conclusions do not appear to have any significant evidence, so far as we are aware. Rather, their criticisms and demands for a new inquiry are based upon different conclusions that they have drawn from parts of the same body of evidence that was examined by the Commission. The Commission made a thorough inquiry and detailed analysis of the facts concerning the assassination. The evidence amply supports the basic conclusions of the Commission. In these circumstances, we see no basis for new inquiry.

I hope that this information will be of assistance. Your enclosure is returned herewith.

Sincerely,

WILL WILSON
Assistant Attorney General

Enclosure
Records
Chron
Hennigan
Wilson
Deputy Attorney General

1241

PLEASE EXPEDITE

THIS MAIL SHOULD BE

ANSWERED WITHIN 48 HOURS

Receipt was acknowledged 8-6-69

Correspondence Section
Records Administration Office
Administrative Division

Congressional

SPECIAL

GPO 16—19064

Congress of the United States

House of Representatives

Washington, D.C.

August 4, 1969

Honorable John N. Mitchell
Attorney General of the U.S.
Department of Justice
Washington, D.C. 20530

Sir:

The attached communication is sent for your consideration. Please investigate the statements contained therein and forward me the necessary information for reply, returning the enclosed correspondence with your answer.

RECEIVED
AUG 7 1969
CRIMINAL DIVISION

Yours truly,

Gilbert Gude, M. C.

226 CHOB
WASHINGTON, D.C. 20515

129-11

DEPARTMENT OF JUSTICE
27 AUG 6 1969
R.A.O.
CRIMINAL-GEN. CRIME SEC.

[redacted] 7c

July 2, 1969

Dear Congressman Rhode,

I am not of voting age but I am aware of and have been aware of those current issues which are of the concern to all americans be they voters or not.

Tonite, David Frost, English television personality interviewed Adam Clayton Powell. Needless to say, I found Powell's arrogant attitude most distressing. Rep. Powell admitted that he had information regarding a conspiracy to supress protest as well as who was behind the murders of John Kennedy and Martin Luther King. He told Frost that he'd be glad to divulge these

"facts" to Frost after the television show. Frost went so far as to say that if he had 'definite' proof, it was his responsibility to tell the people "~~how to do~~ like it is at". Powell responded that he would not reveal this 'information' he had simply because those 'important' people in government knew and weren't doing a tinker's dam about it. Frost answered that, were the 'facts' made public, the general public would make certain that justice was served.

Of course, the present controversy concerns the Warren Commission's Report on the assassination of JFK. Powell mentioned that ½ of Mrs. Kennedy's testimony was deleted and that the coroner at

Bethesda Naval burned his notes when we came home after performing the autopsy.

Powell was so bold as to mention the names of several billionaires, in connection with the talk of the conspiracy, who don't pay income tax on 27% of their incomes. Frost asked if Powell meant that these particular people were behind the conspiracy in any way. His statement 'I'm keeping my mouth shut' is not a definite 'no!'

If the truth is known by the congress of our United states, I suggest it be made public. If indeed you are representing us, it is your responsibility to see that we are informed. If indeed, it

takes Life Magazine to ask "Where did James Earl Ray get his finances?" (If they really are uncovering the facts) I believe we should know. How much a part of us is our nation if we don't know what's going on?

I don't speak for anyone but myself. But it is my belief that if we, the public, were adequately informed about the war in Viet Nam, the conspiracies in this country, the Mafia, the drug rings, Crime Syndicates, political machines and all the other corrupt organizations seemingly running this country, public action would demand an end to it. Our tax dollars count. It isn't enough to know how much goes for education and the building of

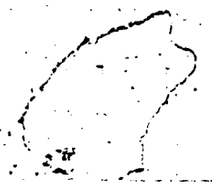
---

today etc. I think it's about time the future of this country was put back into the hands of those who have built the past - we, the people of the United States of America.

Thank you for your time.

Respectfully yours,

[redacted] 7C



T. 8/28/69
WW:EMH:bp
129-11

September 2 1969

Honorable Walter F. Mondale
United States Senate
Washington, D. C.

Dear Senator:

Thank you for your recent communication transmitting a letter from one of your constituents, [redacted] expressing doubt about the conclusions of the Warren Commission concerning the death of the late President John F. Kennedy.

The authors who have criticized the conclusions of the Warren Commission do not claim to have any significant new evidence, so far as we are aware. Rather, their criticisms and demands for a new inquiry are based upon different conclusions they have drawn from parts of the same body of evidence that was examined by the Commission. The Commission made a thorough inquiry and detailed analysis of the facts concerning the assassination. The evidence amply supports the basic conclusions of the Commission. In these circumstances, we see no basis for a new inquiry.

We hope the above information will be of assistance.

Sincerely,

WILL WILSON
Assistant Attorney General

Enclosure

Records
Chron
Higdon
Wilson
Deputy Attorney General

1242

PLEASE EXPEDITE

THIS MAIL SHOULD BE
ANSWERED WITHIN 48 HOURS

Receipt was acknowledged 7-9-69

Correspondence Section
Records Administration Office
Administrative Division

DATE: July 7, 1969

United States Senate

RE: [redacted] 7C

Respectfully referred to

Congressional Liaison
Department of Justice
Washington, D. C.

.....

For your consideration of the attached letter, and for a report.

_____ To be forwarded directly to the constituent, with a copy to me for my information and records.

XX To me, in duplicate to accompany return of enclosure.

_____ As requested below.

RECEIVED
JUL 9 1969
CORRES. MGT.

Additional comments:

12-9-11

DEPT. OF JUSTICE
27 JUL 9 1969
R.M.D.
CRIMINAL-GEN CRIME SEC.

Please refer response to attention of

Gary Avery, of my staff,

on the outside of the envelope only.

Thank you.

WALTER F. MONDALE
U.S. SENATE

Encl

June 27, 1969

Senator Walter Mondale
Senate Office Building
Washington, D.C.

Dear Senator Mondale:

I feel very strongly that the American Public has been done a grave injustice by not being given the whole truth about the assassination of the late President John Fitzgerald Kennedy.

The story that I have been told and lead to believe from the Warren Commission Report is that Lee Harvey Oswald was the lone assassin. Independent investigators have evidence that contradicts this charge--evidence that was available at the time of the Warren Commission investigation but which was never incorporated in their Report. I feel that the time has come to reopen the investigation. In my opinion, every American citizen has a right to an unbiased presentation of the facts, and surely, future generations are entitled to a truthful account of this historic event.

I would like to know how I can make my feelings known to other men in positions such as yours. I would appreciate any information or suggestions that would be helpful in furthering the cause of reopening the investigation.

Thank you.

Sincerely yours,

[redacted] 7C

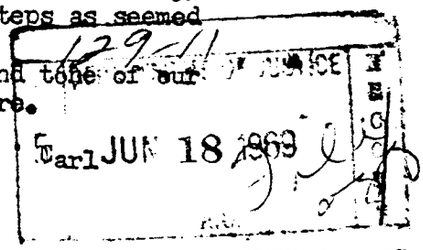
7C

Marty: Apropos the attachm

I do not pretend to have kept current with all the literature on the subject, nor with the convolutions of Mr. Garrison. I have read the most recent blast, SIX SECONDS IN DALLAS, which, in my judgment, though clever, does mot persuade me of any error in the Commission findings. However, if you wish to take a less definitive approach, something like this might do:

"There have been many written and verbal attacks upon the findings of the Warren Commission, although anyone familiar with the record must realize that the findings were the product of a most thorough and searching inquiry into the facts concerning the assassination. That material which has come to out attention does not persuade us of any error in the Commission's conclusions. Nor have we found any substantial reason to believe that there is new evidence available, which, had it been called to the attention of the Warren Commission, would have altered its basic determinations. Under these circumstances we see no basis for a new inquiry. Of course, should evidence become available which, in our judgment, disclosed the need for further action, you may be assured that this office would promptly take such steps as seemed appropriate."

I wish to caution you that the variation in content and tone of our replies might occassion some raised eyebrows, if nothing more.



1243

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Carl Eardley
First Assistant
Civil Division

DATE: FEB 2 1 1968

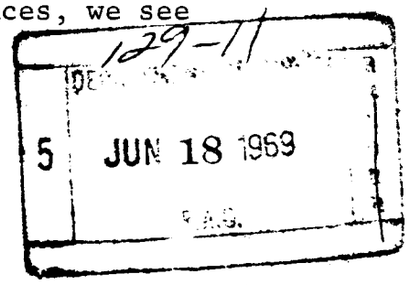
FROM : Martin F. Richman
First Assistant
Office of Legal Counsel

SUBJECT: Citizen mail on Warren Commission report.

As you probably know, this Office has answered most of the citizen mail addressed to the President and the Department, running into hundreds of letters, relating to the aftermath of the Warren Commission report. Since most of the letters very quickly fell into patterns, we developed some standard form paragraphs for the replies, dealing with such matters as demands for a new inquiry based on the statements of the critics of the report, the withholding of some of the evidence, the circumstances relating to the autopsy pictures, etc. These forms were developed in the fall of 1966 with the approval of the Attorney General.

The form relating to the basic criticism of the results of the Commission and demands for a new inquiry is as follows:

> "The authors who have criticized the conclusions of the Warren Commission do not claim to have any significant new evidence, so far as we are aware. Rather, their criticisms and demands for a new inquiry are based upon different conclusions they have drawn from parts of the same body of evidence that was examined by the Commission. The Commission made a thorough inquiry and detailed analysis of the facts concerning the assassination. The evidence amply supports the basic conclusions of the Commission. In these circumstances, we see no basis for a new inquiry."



1244

This form was approved by the Attorney General on the basis, I believe, of the survey of the books then published which had been made under your leadership. Now there is a new round of critical books appearing. I have some impression that it is no longer accurate to say that the authors "do not claim" to have any significant new evidence. I would appreciate your guidance as to any revisions of this form of reply which you think necessary or appropriate in light of the current books and other public statements by the so-called critics of which you are aware.

Pending this consideration of revision of the form we are holding up replies to letters involving this issue. This presents a time problem, inasmuch as many of the current letters come to us by reference from Members of Congress, to whom they are addressed by constituents. To avoid undue delay in replying to these Congressional inquiries, I would appreciate your early guidance.

Typed: 2/26/69
WW:RCN:ehd
129-11

2/11

February 27, 1969

Honorable Walter F. Mondale
United States Senate
Washington, D. C.

Dear Senator:

This is in response to your communication of February 17, 1969 transmitting a letter from [redacted] 7C [redacted] with reference to criminal proceedings pending against alleged conspirators in the deaths of President Kennedy, Senator Robert Kennedy, and Doctor Martin Luther King.

The authors who have criticized the conclusions of the Warren Commission do not claim to have any significant new evidence, so far as we are aware. Rather, their criticisms and demands for a new inquiry are based upon different conclusions they have drawn from parts of the same body of evidence that was examined by the Commission. The Commission made a thorough inquiry and detailed analysis of the facts concerning the assassination. The evidence amply supports the basic conclusions of the Commission. In these circumstances, we see no basis for a new inquiry.

With regard to the Garrison matter, as your constituent may be aware, it has been agreed that agents of the Federal Bureau of Investigation, this Department's investigative arm, will testify in the proceedings against Mr. Shaw.

I am sure also that [redacted] can appreciate that it would be most inappropriate for a Federal agency to comment further on criminal proceedings pending in state courts.

7C [redacted] also expressed her conviction that effective Federal firearms control legislation is needed. I am attaching a copy of Public Law 90-618, the Gun Control Act of 1968, which I trust will be of interest to her. As always it is a pleasure to be of assistance. Your enclosure is returned herewith.

Enclosures
Records
Chrono
Nalley
Mr. Wilson
Deputy AG

Sincerely,

WILL WILSON
Assistant Attorney General

1245

PLEASE EXPEDITE
THIS MAIL SHOULD BE
ANSWERED WITHIN 48 HOURS
Receipt was acknowledged 2-18-69

Correspondence Section
Records Administration Office
Administrative Division

DATE: Feb. 17, 1969

United States Senate

RE [redacted] 7C

Respectfully referred to

Congressional Liaison
Department of Justice
Washington, D. C.

.....

For your consideration of the attached letter, and for a report.

_____ To be forwarded directly to the constituent, with a copy to me, for my information and records.

__XX__ To me, in duplicate to accompany return of enclosure.

_____ As requested below.

Additional comments:

166-12C-1
144-32-66
233279-19
144-32-122

Please refer response to attention of

Gary Avery, of my staff,

on the outside of the envelope only.

Thank you.

WALTER F. MONDALE
U.S. SENATE

129-11

DEPARTMENT OF JUSTICE
10 FEB 19 1969
RECEIVED
CRIMINAL-GEN. CRIME SEC.

[redacted] 7C

9

February 11, 1969

Dear Senator Mondale,

Several months ago, I [redacted] you on the subject of stronger gun-control. I subsequently received an answer, but note that no further action was taken during the last session of Congress. I certainly hope that something more will be done during this session.

I would also like to bring to your attention the fact that this particular citizen of the United States does not look with either scorn or derision upon the current conspiracy trial of Clay Shaw in New Orleans in the death of our late President Kennedy. I am convinced, as are most people whom I have talked with during the past two years, that there must definitely have been some kind of conspiracy in his death, and that it is very probably linked with the deaths of Martin Luther King, Jr., and Senator Robert F. Kennedy. These assassinations in 1968 have certainly served to increase my conviction.

Why does it seem that our

[illegible] the facts of President Kennedy's death? And why has James Earl Ray not been brought to trial — and why so much camouflage and secrecy in the trial of Sirhan Sirhan? These are only a few of the questions I have; also I hear the same questions from friends and neighbors.

I still think I live in the greatest country in the world today, but I think it is time these very basic questions are answered — and time for our country to get back on the right track. Must we lose still more of our leaders before someone does something about the ones we have already lost?

Sincerely,

[redacted]

JC

2/11/69

LU:DHC:fei
129-11

cc: FILE
Mrs. Cop eland
Mr. Chapman

FEB 17 1969

The Honorable Clark MacGregor
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. MacGregor:

You have asked to know the position of this Department concerning the request of a constituent of yours that the documents gathered by the Warren Commission in its investigation of the Kennedy assassination be made available for public examination.

The Warren Commission gathered a vast amount of material, much of it having only remote connection with the assassination. The bulk of the material that was before the Commission either was published in its 26-volume Hearings or is available to researchers at the National Archives. The relatively small portion which is not now available to the public consists primarily of national security intelligence or investigative reports -- dealing largely with activities far removed from the assassination itself -- which if disclosed might compromise confidential sources or techniques.

I hope that the foregoing answers your question.

Sincerely,

Leon Ulman
Deputy Assistant Attorney General
Office of Legal Counsel

1246

PLEASE EXPEDITE

THIS MAIL SHOULD BE

ANSWERED WITHIN 48 HOURS

Receipt was acknowledged 2-12-69

Correspondence Section
Records Administration Office
Administrative Division

CLARK MacGREGOR
THIRD DISTRICT, MINNESOTA

WASHINGTON OFFICE:
409 CANNON OFFICE BUILDING
PHONE: 225-2871

ADMINISTRATIVE ASSISTANT
DAVID N. KROGSENG

COMMITTEE ON THE JUDICIARY

DISTRICT OFFICE:
120 U.S. COURTHOUSE
MINNEAPOLIS, MINNESOTA
PHONE: 334-2173

DISTRICT REPRESENTATIVE:
MRS. MARYELLEN SMITH

Congress of the United States
House of Representatives
Washington, D.C. 20515

RECEIVED FEB 14 9 37 AM 69 OFFICE OF LEGAL COUNSEL

February 11, 1969

OFFICE OF THE ATTORNEY GENERAL RECEIVED FEB 12 1969

The Honorable John N. Mitchell
Attorney General
Department of Justice
Washington, D.C.

Dear Mr. Attorney General:

A constituent of mine has requested that the documents gathered by the Warren Commission in its investigation of the Kennedy assassination be available to public examination.

I would appreciate learning what the Department position is with respect to this matter.

Sincerely,

Clark MacGregor, M.C.

CM:wnc

129-11
DEPARTMENT OF JUSTICE
10 FEB 12 1969 M.I.
ATTORNEY GENERAL
OFFICE OF LEGAL COUNSEL

Form DJ-150
(Ed. 4-26-65)

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Nathaniel E. Kossack, Deputy
Assistant Attorney General

DATE: 139-11

FROM : James R. Robinson, Attorney
General Crimes Section

NEK:JRR:sjs

SUBJECT: Trial of Clay Shaw

FILE

Mr. Block reported that he was forwarding a transcript of the prosecution's opening statement. Under local law, the scope of proof is limited to matters covered in the statement.

So far (February 6) five witnesses have testified to facts and circumstances which place Oswald, Ferrie, and Shaw together in late August or early September in the Jackson - Clinton, Louisiana, area. Of interest to us is the testimony of Reeves Morgan, former Louisiana State Legislator. He said Oswald contacted him in Jackson for a job at a state hospital. After the assassination, Morgan recognized Oswald and says he informed the F.B.I. of his contact with Oswald in Jackson. He says the F.B.I. told him they already knew of Oswald's presence in Jackson. As the attached correspondence shows, the United States Attorney informed Mr. Garrison that the F.B.I. had no contact with Mr. Morgan on the assassination. We told the United States Attorney only that Bureau files and files of their New Orleans office failed to reveal any such contact. If you wish to inquire further into this matter, I will prepare an appropriate memorandum to the F.B.I.

Mr. Block also said you might be interested in knowing that John Manchester, Town Marshal, Clinton, Louisiana, identified Shaw as the driver of an automobile present at a voting registration drive and civil rights demonstration in Clinton in late August or early September 1963. The testimony of other witnesses placed Oswald and Ferrie in the car as passengers.

Tell - Any instructions?

TJR

No - do not do anything at this time. We cannot interfere with state trial K 2/8

Noted
2/7

1248

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

RECEIVED
JAN 25 3 20 PM '68
U. S. ATTORNEY
NEW ORLEANS, LA.

In Reply, Please Refer to File No.

T7013 Federal Building
701 Loyola Avenue
Post Office Box 51930
New Orleans, Louisiana 70150

January 25, 1968

Delivered by hand by S.A. McDonald, F.B.I. from his supervisor Ernie Wall LaC

Honorable Louis C. LaCour
United States Attorney
Eastern District of Louisiana
500 St. Louis Street
New Orleans, Louisiana

Dear Mr. LaCour:

Enclosed for your information is a xerox copy of a letter and envelope addressed to Special Agent Elmer Litchfield at Baton Rouge, Louisiana, from District Attorney James Garrison's office.

Sincerely yours,

Robert E. Rightmyer

ROBERT E. RIGHTMYER
Special Agent in Charge

Enclosures 2

1249

DISTRICT ATTORNEY

PARISH OF ORLEANS
STATE OF LOUISIANA
2700 TULANE AVENUE
NEW ORLEANS 70119

JIM GARRISON
DISTRICT ATTORNEY

January 22, 1968

Mr. Elmer Litchfield
Post Office Box 2150
212 Post Office Building
Baton Rouge, Louisiana

Dear Mr. Litchfield:

Our office has learned from former State legislator, Mr. Reeves Morgan, of Jackson, Louisiana, that Lee Harvey Oswald was in the Jackson and Clinton, Louisiana, area sometime in the late Summer of 1963. Mr. Morgan personally spoke to Lee Oswald at that time in that area.

After the assassination of President Kennedy, Mr. Morgan called your office to inform you of Oswald's presence in the area. He spoke to an agent, whose name he cannot now recall, who told him that your office was aware of Oswald's activity and presence in the area.

Our office is very interested in Oswald's activity in this area. We would like an opportunity to talk with you and see whatever statements you may have relative to this incident. Therefore, we request an interview with you as soon as possible at your convenience. I may be contacted at 2700 Tulane Avenue, New Orleans, Louisiana, and my phone number is 822-2414.

Very truly yours,

Andrew J. Sciambra

ANDREW J. SCIAMBRA
Assistant District Attorney

AJS:sk

1250

February 14, 1968

Mr. Andrew J. Sciambra
Assistant District Attorney
Parish of Orleans
2700 Tulane Avenue
New Orleans, Louisiana 70119

Dear Mr. Sciambra:

Your letter of January 22, 1968, directed to Mr. Elmer Litchfield, Resident Agent in Charge, Federal Bureau of Investigation in Baton Rouge, Louisiana, relative to information alleged to have been brought to the attention of the FBI by one Mr. Reeves Morgan, of Jackson, Louisiana, subsequent to the assassination of President Kennedy in November of 1963, has been brought to the attention of this office.

This is to advise you that this matter has been forwarded to the Department of Justice and that the only information imparted by Mr. Morgan to the FBI was in August of 1963, which was prior to the assassination, and the information imparted was on a totally unrelated matter.

As to the information referred to in your letter of January 22, 1968, the FBI has no record of any such contact by Mr. Morgan.

Yours very truly,

GENE S. PALMISANO
First Assistant U. S. Attorney

GSP:eef

1252

Form DJ-96a
(Rev. 6-22-66)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO:	NAME	DIVISION	BUILDING	ROOM
1.	~~Mr. Bloch~~			~~2116~~
2.	Mr. Bloch			2116
3.				
4.				

- ☐ SIGNATURE
- ☐ APPROVAL
- ☐ SEE ME
- ☐ RECOMMENDATION
- ☐ COMMENT
- ☐ NECESSARY ACTION
- ☐ NOTE AND RETURN
- ☐ CALL ME
- ☐ PER CONVERSATION
- ☐ AS REQUESTED
- ☐ NOTE AND FILE
- ☐ YOUR INFORMATION
- ☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____
- ☐ PREPARE REPLY FOR THE SIGNATURE OF _____

REMARKS

~~Wash~~ Wash NSA and suggested that absent other facts unknown to us — the WFO write Local PD the FBI has confirmed his it [redacted] only interviewed Morgan several months prior to association and [illegible] in mind that Morgan

FROM:	NAME	BUILDING & ROOM	EXT.	DATE
	ever [illegible]	FBI	any	
	information regarding	in connection with		
	the association	investigation	✓	6/13/

(1) Add these names to your diary. (2) Call WFO & see what [illegible]

May 27, 1968

Mr. Andrew J. Sciambra
Assistant District Attorney
Parish of Orleans
2700 Tulane Avenue
New Orleans, Louisiana

Dear Mr. Sciambra:

This is in reply to your letter of March 29, 1968, in which you requested that we furnish you with any information the FBI may have concerning the alleged presence of Lee Harvey Oswald in the Jackson and Clinton, Louisiana, area in the late summer or early fall of 1963.

The results of the Bureau's investigation of President Kennedy's assassination were turned over to the Warren Commission. Most of that material has either been published in the Commission's one-volume Report or in the 26-volumes of testimony and exhibits. Other material regarding the assassination investigation is available to the general public in the National Archives.

Sincerely,

GENE S. PALMISANO
First Assistant U. S. Attorney

GSP:cbu

bcc: Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D. C.

1255

DISTRICT ATTORNEY

PARISH OF ORLEANS
STATE OF LOUISIANA
2700 TULANE AVENUE
NEW ORLEANS 70119

JIM GARRISON
DISTRICT ATTORNEY

May 17, 1968

Honorable Gene S. Palmisano
First Assistant U.S. Attorney
Wildlife & Fisheries Building
418 Royal Street
New Orleans, Louisiana 70130

Dear Mr. Palmisano:

I am writing you in regards to my previous letter of March 29, 1968, which concerned the FBI's information and/or knowledge of Lee Harvey Oswald's presence in the Clinton and Jackson, Louisiana, area.

As of yet I have not received an answer to this letter. On April 22, 1968, you informed me by telephone that you had forwarded this letter to Washington, D.C.

I would appreciate any information that you may be able to give me at this time regarding the status of my request.

Thanking you for your cooperation in this matter, I am

Respectfully,

ANDREW J. SCIAMBRA
Assistant District Attorney

AJS:sk
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

assassination Inv. File

DISTRICT ATTORNEY

PARISH OF ORLEANS
STATE OF LOUISIANA
2700 TULANE AVENUE
NEW ORLEANS 70119

JIM GARRISON
DISTRICT ATTORNEY

March 29, 1968

RECEIVED
APR 1 8 42 AM '68
U.S. ATTORNEY
NEW ORLEANS, LA.

Honorable Gene S. Palmisano
First Assistant U. S. Attorney
Wildlife & Fisheries Building
418 Royal Street
New Orleans, Louisiana 70130

Dear Mr. Palmisano:

I am writing you for assistance since you answered my two previous letters to Mr. Elmer Litchfield and Mr. J. Edgar Hoover of the Federal Bureau of Investigation.

Perhaps I was not clear in my prior requests, but we are sincerely attempting to learn whether the Bureau has any information - irrespective of Mr. Reeves Morgan's telephone contact with the Bureau's Baton Rouge Office - relative to Lee Harvey Oswald's presence in the Jackson and Clinton, Louisiana, area in the late summer or early fall of 1963. If the Bureau has such information, from whatever source, we would appreciate being able to discuss it with them. Also, if the Bureau does not have any information about Oswald's presence in that area at the time, we would like to know this.

We earnestly solicit your cooperation in this matter and hope we can return the consideration in the future.

Very truly yours,

ANDREW J. SCIAMBRA
Assistant District Attorney

AJS:bb

1257

United States Department of Justice

UNITED STATES ATTORNEY
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS, LOUISIANA 70130

March 7, 1968

Mr. Andrew J. Sciambra
Assistant District Attorney
Parish of Orleans
2700 Tulane Avenue
New Orleans, Louisiana 70119

Dear Mr. Sciambra:

Your letter of February 19, 1968, directed to Mr. J. Edgar Hoover, Director, Federal Bureau of Investigation, in which you requested information relative to Lee Harvey Oswald's alleged presence in the Jackson and Clinton, Louisiana, area in the late summer of 1963, has been forwarded to this office for reply.

We note from your letter of January 22, 1968, to Mr. Elmer Litchfield, Special Agent, Federal Bureau of Investigation, that your knowledge of Oswald's whereabouts is apparently predicated on information furnished to you by Mr. Reeves Morgan, Jackson, Louisiana, who, it is alleged, furnished similar information to the FBI after the assassination.

As we have previously informed you in our letter of February 14, 1968, a review of the files of the Bureau and of their New Orleans office fails to reveal any contact with Mr. Morgan in connection with the assassination investigation. Mr. Morgan was interviewed by the FBI in August of 1963, but this concerned a totally unrelated matter.

Sincerely,

GENE S. PALMISANO
First Assistant U. S. Attorney

GSP:eef

1258

United States Department of Justice

UNITED STATES ATTORNEY
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS, LOUISIANA 70130

February 14, 1968

Mr. Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D. C. 20530

Dear Carl:

Enclosed herewith is a copy of the letter we have forwarded this date to Mr. Andrew J. Sciambra, Assistant District Attorney for the Parish of Orleans, in accordance with your letter of February 1, 1968.

Kindest personal regards.

Sincerely,

Louis C. LaCour

LOUIS C. LaCOUR
United States Attorney

Encl.
LCLaC:eef

1259

Form DJ-96a.
(Rev. 6-22-66)

DEPARTMENT OF JUSTICE

ROUTI SLIP

TO: NAME	DIVISION	BUILDING	ROOM
1. ~~Mr Kissack~~			7107
2. ~~Mr Vaun~~			
3. Mail Room			
4.			

☐ SIGNATURE ☐ COMMENT ☐ PER CONVERSATION
☐ APPROVAL ☐ NECESSARY ACTION ☐ AS REQUESTED
☐ SEE ME ☐ NOTE AND RETURN ☐ NOTE AND FILE
☐ RECOMMENDATION ☐ CALL ME ☐ YOUR INFORMATION
☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE ____
☐ PREPARE REPLY FOR THE SIGNATURE OF ____

REMARKS

Mr Vaun

I am in agreement with GC that we should call Morgan & Scambri to talk. OK a "no record" response is subtly different than giving the DA any information

Kom

FROM: NAME	BUILDING & ROOM	EXT.	DATE

[redacted] [redacted]

1260

Mr Belcher

I understand the Bureau has sent the AG a memo on this

Tom

1/29

rec'd 1/29/68

January 26, 1968

Mr. Robert E. Rightmyer
Special Agent in Charge
Federal Bureau of Investigation
T7013 Federal Building
701 Loyola Avenue
Post Office Box 51930
New Orleans, Louisiana 70150

Dear Mr. Rightmyer:

This will acknowledge receipt of the January 22, 1968, letter of Orleans Parish Assistant District Attorney, Andrew J. Sciambra, to your resident agent in Baton Rouge, Mr. Elmer Litchfield, wherein Mr. Sciambra requests information that the FBI may have received as to activities of Lee Harvey Oswald in the Jackson and Clinton, Louisiana, areas sometime in the late summer of 1963. This letter was delivered by hand to me by your Special Agent McDonald under transmittal letter from you dated January 25, 1968.

As you are aware, I am sure, any material or information relating to material contained in the files of the Department of Justice or any information or material acquired by any person while such person was an employee of the Department of Justice as a part of the performance of his official duties or because of his official status cannot be divulged without the express authority of the Attorney General of the United States.

I am this date forwarding to the Department of Justice the above mentioned correspondence and request in the future that when such correspondence is received by the FBI that it be immediately forwarded to the Department of Justice with appropriate copies to this office. It is also advisable that upon receipt of such correspondence that this office be advised immediately telephonically.

It is further requested that the Department of Justice and this office be furnished with copies of any answering correspondence in this matter.

Very truly yours,

LOUIS C. LaCOUR
United States Attorney

LCLaC:cbu
bcc: Mr. Nathaniel E. Kossack
First Assistant Attorney General, Criminal Division
Department of Justice
Washington, D. C.

United States Department of Justice

UNITED STATES ATTORNEY
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS, LOUISIANA 70130

February 6, 1969

129-11

Mr. Nathaniel E. Kossack
Criminal Division
Room 2107
Department of Justice
Washington, D. C. 20530

Re: Possible Action by the United States Attorney's Office for the Eastern District of Louisiana when F.B.I. and Secret Service Agents are called to testify at the Shaw Trial

Dear Tulley:

Enclosed herewith is a copy of a memorandum outlining the possible action to be taken by this office in the event the agents subpoenaed to testify are asked to testify beyond the scope of their granted authority to so do and attached also are the prepared pleadings we intend to use in the event it becomes necessary.

Kindest personal regards.

Sincerely,

Louis C. LaCour

LOUIS C. LaCOUR
United States Attorney

LCLaC:ccy

Enclosures

1264

HARRY F. CONNICK
Assistant United States Attorney
Chief, Criminal Division

HORACE P. ROWLEY, III
Assistant United States Attorney

February 3, 1969

POSSIBLE ACTION BY THIS OFFICE WHEN FBI AND SECRET SERVICE AGENTS TESTIFY AT THE SHAW TRIAL

1. QUESTIONS

The questions are what courses of action this office should take if (a) a disclosure type situation and (b) a contempt type situation arise.

2. ANSWER

(a) If a disclosure-type situation arises, the procedure set out in 28 CFR 16. 11-16, 14 should be followed; (b) if the agent follows these procedures but is held in contempt, then the contempt proceeding (not the Shaw case) should be removed to federal court under 28 USC 1442(a)(1).

3. FACTS

A. BACKGROUND. FBI Agents Robert A. Frazier, Lyndal L. Shaneyfelt, former FBI Agent Regis L. Kennedy and former Secret Service Agent (SSA) Roy H. Kellerman have been subpoenaed by the State as witnesses in State v. Shaw. Kennedy was served in Louisiana. The other three (3) agents were served outside of Louisiana. The order directing their appearance defines the scope of their expected testimony. All four (4) agents have been instructed to appear as ordered.

All four (4) agents have testified before the Warren Commission. Their testimony has been published. D.J. has already approved the disclosure at the trial of this information. The scope of that approval was defined in the D.J. memo dated January 24, 1969, from

Nathaniel E. Kossack, Acting Assistant Attorney General, Criminal Division to Louis C. LaCour, United States Attorney which provides in part:

> The Department has concluded that these Agents Frazier and Shaneyfelt should be permitted to testify to the substance of what has already been made a matter of public record in connection with the Warren Commission proceedings. Former Agent Kennedy should be permitted to testify concerning any of the matters within the ambit and scope of his interviews of Dean A. Andrews. However, if the questioning goes beyond those matters, you are requested to inform the Court of the provisions of Department Order 381-67, dated June 29, 1968, Federal Register volume 32, No. 128, page 9662, dated July 4, 1967, and request that the agents be permitted to contact the Attorney General so that he may perform his function under that order.

William Arnold at D.J. has informed me that as far as he knows all four (4) agents testified to all they know at the Warren Commission hearings. The phrase in the above D.J. memo ("if the questioning goes beyond those matters," then the DJ ORD should be invoked) is somewhat cryptic. Although invokation of the DJ ORD will probably be unnecessary, a course of action has been planned. (Jeff Axelrod, Ext. 3307, is our man at DJ).

B. SCENARIO. The situation which will require action by this office will develop as follows: The four (4) agents and an AUSA will appear in Criminal District Court at the appropriate time. The agents will be asked on the witness stand to disclose (a) information within the scope of the AG's approval (white), (b) information outside the approval scope (black), and (c) information on the borderline (gray). Of course, if they don't know about the demanded information, they will say they "don't know." As to white information there is no problem. As to black and gray information, the agents have a duty to obey DJ ORD. (The former Secret Service agent must follow treasury regulations). In a disclosure type situation, the AUSA in Court must insure that the D.J. and Treasury orders are followed by the agents. If those orders are followed and the trial judge follows that Supreme Court's interpretation of the effect of those orders, then the matter will be settled and no further action will be necessary. But if the trial JUDGE holds the agent in contempt for declining to disclose the information, then we must immediately remove the contempt case to federal court. No

action is required before the contempt proceeding because no departmental interest has been hurt.

4. STRATEGY

Our goals are to insure that D.J. orders concerning disclosure of information are followed by the testifying agents and to protect the agents from being punished for obeying orders. The context in which these goals must be achieved is well known: the trial judge will desire to create a public image of an independant judge and the DA will attempt to blame his failure to obtain disclosure on federal intervention. From our point of view it is desirable to achieve our main goals and at the same time to allow the judge to preserve his public image and to give the DA as little propaganda ammunition as possible. What we must do is clear; whether we succeed depends on how well we do it. As to the judge, he will probably have to decide the disclosure question from the bench (shooting from the hip). The probability of a favorable decision will be increased if (a) the judge is made aware that he has no real choice in the matter by giving him copies of the DJ ORD, the Touhy case and a memo, and (b) emphasizing that the DA has other options for obtaining disclosure. As to the DA, the age and history of these disclosure regulations, and the fact that he was informed of them during the Regis Kennedy grand jury subpoena hearing, will take some wind out of his sails.

5. DISCUSSION

A. DISCLOSURE SITUATION

A "disclosure situation" is a situation where a subordinate federal employee is requested to disclose in a proceeding where the Government is not a party (a) any information relating to material contained in the files of the Department of Justice, or (b) any information acquired as a part of the performance of his official duties or because of his official status. The Department of Justice has promulgated specific regulations to guide this class of employees in this type of situation.

5 USC §301 (as amended), the "housekeeping statute" provides:

> The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public. Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 379.

Department of Justice Order No. 381-67 (28 CFR 16.11-16.14) referred to as "DJ ORD" provides in part:

> § 16.11 Purpose and scope.
>
> This subpart contains the regulations of the Department of Justice concerning procedures to be followed when a subpoena, order, or other demand (hereinafter in this subpart referred to as a "demand") of a court or other authority is issued for the production or disclosure of (a) any material contained in the files of the Department, (b) any information relating to material contained in the filed of the Department, or (c) any information or material acquired by any person while such person was an employee of the Department as a part of the performance of his official or because of his official status. For the purposes of this subpart, the term "employee of the Department" includes all officers and employees of the United States appointed by, or subject to the supervision, jurisdiction, or control of, the Attorney General of the United States, including U.S. attorneys, U.S. marshals, and members of the staffs of those officials
>
> § 16.12 Production prohibited unless approved by the Attorney General
>
> No employee or former employee of the Department of Justice shall, in response to a demand of a court or other authority, produce any material contained in the files of the Department of Justice or disclose any information relating to material contained in the files of the Department of Justice or disclose any information or produce any 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.

§ 16.13 Procedure in the event of a demand for production or disclosure.

(a) Whenever a demand is made upon an employee or former employee of the Department of Justice for the production of material or the disclosure of information described in § 16.11, he shall immediately notify the Attorney General and the United States Attorney for the district where the issuing court or other authority is located. The United States Attorney shall immediately request instructions from the Attorney General. If possible, the Attorney General shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before the instructions from the Attorney General are received, the United States Attorney or other attorney as may be designated for the purpose, shall appear with the employee or former employee of the Department upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been or is being, as the case may be, referred for the prompt consideration of the Attorney General. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Attorney General.

§ 16.14 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with §16.13(b) pending receipt of instructions from the Attorney General, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Attorney General not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (United States ex rel Touhy v. Ragen, 340 U.S. 462).

Treasury Department regulations, 31 CFR 1.1-1.11, are very similar except that § 1.10 does not expressly cover former employees.

These regulations impose a duty on specific classes of government employees not to disclose specific classes of information without prior approval; and the lay-out a procedure which must be followed in a disclosure situation. The Supreme Court has held that a subordinate official cannot be held in contempt for following these regulations. In Touhy v. Ragen, 340 U.S. 462 (1951), the question was whether or not an FBI Agent in accordance with a Department of Justice regulation may lawfully decline to produce departmental records in response to a subpoena duces tecum. Roger Touhy instituted a federal habeas corpus proceeding. A subpoena duces tecum requiring the production of departmental records was served on one McSwain an FBI agent. At the hearing, the agent respectfully declined to produce the records on the ground that a Department of Justice regulation forbidded their disclosure. The judge found the agent in contempt and ordered him imprisoned until the agent produced the records On Appeal, the Seventh Circuit reversed. On Certiorari, the Supreme Court affirmed (8 to 0) and held that "We think that Order No. 3229 (now superceded) is valid and that Mr. McSwain in the case properly refused to produce these papers." Id at 468.

The Court followed Boske v. Comingore, 177 U.S. 459 (1900) where the Court had affirmed the reversal of state contempt conviction against a Treasury agent and held that the agent in accordance with a similar Treasury regulation properly declined to disclose records of the Treasury Department. The Court in Touhy reasoned that the Attorney General can validly withdraw from his subordinates the power to release department papers.

> When one considers the variety of information contained in the files of any government department and the possibilities of harm from unrestricted disclosure in court, the usefulness, indeed the necessity, of centralizing determination as to whether subpoenas duces tecum will be willingly obeyed or challenged is obvious. Id at 468.

DJ ORD. does not create an "executive privilege." It merely withdraws from subordinates the power to decide what departmental information will be disclosed. Touhy v. Regen, supra. The Government employee must assert the DJ ORD. Overly v. U.S. Fidelity and Guaranty Co., 224 F.2d. 158 (5 Cir. 1955). If the subordinate asserts DJ ORD., then his department head may be subpoenaed. The department head may assert a true "executive privilege" Rosee v. Board of Trade of the City of Chicago, 35 F.R.D. 512 (D.C. Ill. 1964). The Court will then determine if disclosure is covered by the privilege. NLRB v. Capitol Fick Co., 294 F.2d. 868 (5 Cir. 1961).

For a general discussion of DJ ORD and its interpretation see 8 Wigmore on Evidence § 2738 and 4 Moore's Federal Practice § 26.25.

Here, DJ ORD applies to the testimony of all three (3) FBI Agents. The treasury Regulation applies to the former Secret Service agent by analogy to DJ ORD. There is no issue about whether the agents are amenable to process or must appear because all four (4) have been directed to testify. All four (4) agents may testify "to the substance of what has already been made a matter of public record in connection with the Warren Commission proceedings" because (a) their prior public statements constituted a waiver of DJ ORD and (b) they have prior departmental approval.

If gray or black information is demanded, DJ ORD must be invoked. A good record is mandatory. The only evidence in these type cases is the testimony of the Government agent. Here, if the agents are held in contempt and the case is reversed the Government's only evidence will be the transcript of the agent's testimony. The agent must "respectfully decline" to disclose the information and inform the judge that he is declining because either (a) approval from the Attorney General has not been received or (b) the Attorney General has instructed him not to disclose the information. The AUSA must clearly state for the record that a copy of DJ ORD has been furnished the judge. I also recommend that a copy of the Touhy case be given to the judge. The judge should be informed that if he follows the Touhy case, the party calling the agent has the option of subpoenaing the Attorney General. Of course, disclosure of the information from the Attorney General will depend on (a) whether he can be served, and (b) whether disclosure is subject to an "executive privilege."

Hopefully, the judge will follow the Touhy case. Then no further action by this office will be necessary.

B. CONTEMPT SITUATION

If the agent declines to testify on the ground of DJ ORD and he is held in contempt for failure to disclose the information after being ordered to do so by the judge, then this office must remove the criminal contempt prosecution (not the entire Shaw case) to federal court.

(1) CONTEMPT ARTICLE

Louisiana Code of Criminal Procedure (C.Cr.P.) Art. 20 provides:

> A contempt of court is an act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.
>
> Contempts of court are of two kinds, direct and constructive.

C.Cr.P. Art. 21(4) provides:

> A direct contempt of court is one committed in the immediate view and presence of the court and of which it has personal knowledge; or, a contumacious failure to comply with a subpoena, summons or order to appear in court, proof of service of which appears of record; or, a contumacious failure to comply with an order sequestering a witness.
>
> A direct contempt includes, but is not limited to, any of the following acts:
>
> (4) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a nonincriminating question when ordered to do so by the court.

(2) REMOVAL STATUTE

If the judge refuses to follow Touhy and holds the agent in contempt then the criminal contempt proceeding must be removed to federal court under 28 USC § 1442(a)(1).

28 USC § 1442(a)(1) provides:

> (a) A civil action or criminal prosecution commenced in a State court against any of the following persons may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:
>
> (1) Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such offic or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

28 USC § 1446 (c & f) provides:

> (c) The petition for removal of a criminal prosecution may be filed at any time before trial.
>
> (f) If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.

A case very similar to this one has been held properly removable under § 1442(a)(1). In State of North Carolina v. Carr, 264 F.Supp. 75 (W.D.NC 1967), the question was whether or not a contempt proceeding in State court against an FBI agent was removable under 28 USC § 1442(a)(1). A civil action was begun in State court. An FBI agent was issued a subpoena duces tecum to produce Department of Justice records. The AG instructed the agent not to produce any records or disclose any information acquired as a part of the performance of his official duties as a FBI agent. On the basis of Department Order No. 324-64 (now superceded) the agent respectfully declined to disclose the demanded information. The state judge then held the agent in contempt for his failure to produce the documents or answer the questions put to him. The agent was taken into custody. A Petition For Removal was immediately filed in federal court. The district solicitor then filed a motion to remand. The court denied the Motion to Remand, found the agent not guilty of contempt and released the agent from custody. The court held that (a) a state criminal contempt prosecution against an FBI agent because he obeyed the orders of his superior and declined to disclose information acquired as a part of his official duties was properly removable under 28 USC § 1442(a)(1), and (b) the FBI

agent had properly declined to answer the question and therefore was not in contempt. The court in Carr distinguished and refused to follow In Re Heisig, infra.

On Appeal in Carr, 386 F.2d 129 (4 Cir. 1967) the Fourth Circuit dismissed the appeal for mootness but held that the case had been properly removed. The Fourth Circuit reasoned:

> We think it unfruitful to quibble over the label affixed to this contempt action. Regardless of whether it is called civil, criminal, or sui generis, it clearly falls within the language and intent of the statute.
>
> [1, 2] The purpose of the statute is to take from the State courts the indefeasible power to hold an officer or agent of the United States criminally or civilly liable for an act allegedly performed in the execution of any of the powers or responsibilities of the Federal sovereign. Neither immunity nor impunity is guaranteed the alleged offender; the statute merely transfers his trial to the Federal courts. Insistence upon the right of removal has been declared essential to the integrity and preeminence of the Federal government within its realm of authority. The reasons for the statute are so apparent, and were so clearly expounded, with its history carefully treated, in State of Tennessee v. Davis, 100 U.S. 257, 262, 25 L.Ed. 648 (1879), that we have no occasion to reiterate here the necessity for its rigid enforcement.
>
> [3, 4] To repeat, the central and grave concern of the statute is that a Federal officer or agent shall not be forced to answer for conduct assertedly within his duties in any but a Federal forum. Thus the statute looks to the substance rather than the form of the state proceeding; this is reason for the breadth of its language. Accordingly, the applicability of the statute to the present case is perfectly apparent. By citing Carr for contempt, the State court attempted to subject him to incarceration until such time as he complied with the Court's order and thus disobeyed the directive of his superior officers. A statute designed to permit Federal officers to perform their duties without State interference clearly applies to such a situation, regardless of the label the State chooses to affix to its action.

In In Re Heisig, 173 F. Supp. 270 (N.D. Ill. 1959), the question was whether or not a state criminal contempt proceeding against two (2) Treasury agents for allegedly committing perjury was removable under 28 USC § 1442(a)(1). The agents has arrested one Taylor for possession and sale of narcotic drugs. At the state trial the agents mistakenly identified the man in court (also named Taylor and with a strikingly similar appearance) as the man they arrested. The evidence conducively showed that the man in court had been in jail at the time the other Taylor had been arrested. The state judge hald the agents in contempt on the ground that their testimony had been perjurous. The federal court remanded the case and held (a) that this type of state contempt proceeding was not removable and (b) the agents were acting as individuals and not under color of authority when they testified falsely.

The situation in the Carr case was quite different from that in the Heisig case. In Heisig the contemptuous act was the allegedly perjurous testimony. In Carr the contemptuous act was obeying a superior's orders and declining to disclose information; this act was clearly "under color of such office." Therefore, the Heisig case is wrong to the extent that it holds that no state contempt proceeding is removable. Of course, Heisig is a foreign district court decision and no court in this district is compelled to follow it.

See generally, 2 Cyclopedia of Federal Procedure § 3.83-3.84; 1A Moore's Federal Practice § 0.164 & 0.168; Dec. Dig. Removal of Cases 22.

(1) "Criminal prosecution commenced in a State Court" Here the contempt prosecution are criminal in substance. Contentions to the contrary were rejected in the Carr case. Also, the Heisig case did not cover this type of situation. The § 1446(c) requirement that removal must be filed "at any time before trial" does not apply to contempt cases, because the trial is usually minutes after the contemptuous act. State of North Carolina v. Carr, supra; see Bloom v. Illinois, 391 U.S. 194 (1968).

(2) "Against * * * an officer of the United States * * * or person acting under him." Frazier and Shaneyfelt are now officers of the United States. Former FBI agent Kennedy is acting under an officer of the United States, that is, the AG because DJ ORD applies to former employees. Former Secret Service agent Kellerman is also acting under an officer of the United States, that is, the Secretary of Treasury, because the Treasury regulations apply to him (a) by analogy to DJ ORD and (b) because

he was an employee when he obtained the information.

(3) "Act under color of such office" The Act in this case is the refusal to disclose the demanded information when ordered to do so by the court. The four (4) agents have a duty to so act under departmentment regulations. Clearly, that act is done under color of such office.

(3) PROCEDURE FOR REMOVAL

28 USC § 1446 sets out the procedure for removal. Removal petitions for each agent have already been prepared. If the agent is held in contempt the AUSA in court must notify this office immediately so that the petition can be filed and signed. A Petition for Writ of Habeas Corpus under § 1448(f) has also been prepared for each agent. If the agent is taken into custody, this petition should be filed contemporaneously with the removal petition. The AUSA in court will be provided with a copy of these petitions. He must file the copy of the removal petition with the Clerk of Criminal District Court in order to effectuate the removal 28 USC 1443(e); Adair Pipeline Co. v. Pipeliners Local Union No. 798, 203 F. Supp. 434 (S.D. Tex. 1962). The AUSA in court should also arrange to have the agents testimony transcribed. If there are any hangups, we can obtain a Writ of Certiorari from the Clerk for the record under § 1447(b).

6. REJECTED OPTIONS

A. WRIT OF CERTIORARI TO SUPREME COURT OF LOUISIANA

Our purpose is merely to insure that DJ ORD and the Touhy case are followed. This writ calls for the exercise of the court's supervisory jurisdiction. Compared to federal court the Louisiana Supreme Court is an unfavorable forum to have federal rights adjudicated. Exercising this option involves a considerable risk that the writ will be denied, that a decision will be delayed and that the district court will be affirmed. If the case is remanded by the federal court then the option could be exercised.

B. FEDERAL INJUNCTION

It has been suggested that we could sue in federal court for an injunction against the judge and the DA. The