

UNITED STATES GOVERNMENT

Memorandum

Tolson	_____
Belmont	_____
Mohr	_____
Casper	_____
Callahan	_____
Conrad	_____
DeLoach	_____
Felt	_____
Gale	_____
Rosen	_____
Sullivan	_____
Tavel	_____
Trotter	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

TO : Mr. Belmont *W* DATE: January 6, 1964

FROM : C. A. Evans

SUBJECT: JACK LEON RUBY
LEE HARVEY OSWALD - VICTIM
CIVIL RIGHTS

Assistant Attorney General Miller of the Criminal Division telephoned with reference to the subpoena which was served on two Bureau Agents at Dallas on December 23, 1963. These two Agents, C. Ray Hall and Manning Clements, interviewed Ruby at the jail following his arrest for killing Oswald. The subpoena was issued by Ruby's attorneys in connection with a hearing originally scheduled for December 23, 1963, to determine if Ruby should be released on bail.

SAC Shanklin, who called in from Dallas on December 23 about this matter, proposed at that time that the Agents appear but not answer any questions except that they did interview Ruby and he answered questions. Shanklin was to get in touch with the U. S. Attorney. Actually the hearing was not held, having been postponed. It is now scheduled for January 24, 1964.

Assistant Attorney General Miller said that he was calling at this time so that we could give consideration to the action which the U. S. Attorney should take when this matter comes up in court on January 24. He noted that the U. S. Attorney has been in touch with Ruby's Dallas counsel, who is a reputable member of the bar. The U. S. Attorney has been assured that any questioning of the Bureau Agents will be limited to the facts surrounding the Agents' interview of Ruby following his arrest.

While there is some question as to the admissibility of the Agents' testimony in this regard, the local District Attorney who is representing the state will not object to the Agents' testifying. He feels that the Agents' testimony would not be detrimental to the state's case in any way and that if he objected to the testimony, this could react unfavorably to the state.

- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Malley

CAE:vap
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Memorandum to Mr. Belmont

Miller asked that the Bureau consider this matter. He said he would appreciate receiving any thoughts which we might have. He noted that the U. S. Attorney could be instructed to rely upon the privileged nature of Federal Government matters. He observed that this would be technical in nature because as a matter of fact there is nothing confidential about the statements made by Ruby.

Miller also expressed the feeling that if the U. S. Attorney argued against the appearance of the Agents on the basis of privilege, it might create the impression that the Federal Government had something to hide, whereas actually the U. S. Government has no direct interest in this state murder prosecution.

While Miller is perfectly willing to go along with the Director's decision, whatever it may be, he thought we should give some consideration to the unfavorable reaction should the Agents decline to testify. He pointed out that this case is obviously a most important one and the unusual procedure of allowing the Agents to testify in the state prosecution could be justified.

RECOMMENDED ACTION:

On reviewing the matter, it appears that Miller's observations have merit. It would be difficult to contend that the information here was confidential. Should the state request it when the trial for murder actually begins, the Agents would testify for the state as to what Ruby told them. Ultimately, the decision as to this testimony is properly one for the Department. We will, therefore, if you approve, inform Miller that we appreciate his bringing this matter to our attention and will defer to his views as to whether the Agents should be allowed to testify. The U. S. Attorney should, of course, be present in State Court if Agents testify.

*Miller advised
2/16/54
Miller advised
agents made
available
for testif
JSM*

[Handwritten initials and signatures]