

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Belmont

DATE: April 10, 1964

FROM : A. Rosen

SUBJECT: JACK L. RUBY, AKA.  
LEE HARVEY OSWALD, AKA. - VICTIM  
CIVIL RIGHTS

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

### REQUEST OF DEFENSE ATTORNEY TONAHILL

Assistant Attorney General Miller by memorandum dated 4-7-64 enclosed a letter to the Department from one of Ruby's defense attorneys, Joe H. Tonahill, in which Tonahill requested copies of statements given to the FBI by officers Archer, McMillon, Leavelle, King and Dean of the Dallas Police Department for use by the defense in their motion for a new trial and their appeal of Ruby's conviction. Tonahill stated that the testimony of these officers at the trial of Ruby was the sole evidence of the State touching on malice, intent and premeditation and was the basis for the court charging the jury on "murder with malice" rather than "murder without malice" which carries a lesser sentence.

### FACTS

In our investigation of the Ruby case, we interviewed all of the police officers mentioned by Tonahill within a few days after the shooting of Oswald by Ruby. We also obtained copies of these officers' initial statements to their superiors. The officers in their testimony at the trial attributed certain statements to Ruby immediately after the shooting touching on malice, intent and premeditation which statements were not contained in their interviews by Bureau Agents and were not contained in their initial statements to their superiors. Tonahill is apparently aware of this as in his letter he states that he has seen statements (made by officers to their superiors) of three of the officers that had been corrected in subsequent statements and he pointed out that the subsequent statements supplied the premeditation testimony.

- 1 - Mr. DeLoach
- 1 - Mr. Sullivan

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OBSERVATION

Tonahill on 1-9-64 requested access to the results of all of our investigation relating to the assassination of the President and subsequent shooting of Oswald. In this instance, we deferred the decision as to what would be furnished to the defense to the Department and the Department made available to the defense the names and addresses of over a thousand persons who had been interviewed by the FBI in connection with the investigation of Ruby's shooting of Oswald along with one or two sentences showing the nature of their association with Ruby or general nature of information furnished by them. No information was furnished to the defense concerning our investigation of Oswald or the assassination of the President. In response to Mr. Tonahill's current request, the Bureau cannot reasonably impose any objection to furnishing the requested results of our interviews with the officers if they could in any way be pertinent to the success or failure of Ruby's appeal. The Bureau will, therefore, defer to the decision of the Department as to whether or not the requested statements of the officers to FBI Agents are to be furnished to the defense, without comment as to the merits of the action.

ACTION

A letter is being forwarded to Assistant Attorney General Miller advising him that the Bureau will defer to the Department's judgment and decision as to whether or not the interview reports covering the FBI's interviews of the five named officers are to be furnished to the defense.

LETTER ATTACHED

*[Handwritten initials and signatures]*

SEE DETAILS PAGE 3.

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DETAILS

Details of the FBI interviews of Dallas Police Officers Archer, McMillon, Leavelle, King and Dean and their testimony at the trial of Ruby indicating premeditation is set forth as follows.

Detective D. R. Archer was interviewed on 11-25-63 and he advised that he was present in the immediate proximity when Ruby shot Oswald in the basement of the Dallas police building on 11-24-63. At the time the shot was fired, he heard Ruby say something but the only words he could make out were "son of a bitch." Immediately after the shot, he asked, "Who is it?" Ruby made the statement, "You know me, I'm Jack Ruby." Archer then along with other officers took Ruby to the fifth floor of the police building and stayed with him until 3:00 p.m. At the trial, Archer testified on 3-5-64 to the above statements made by Ruby and in addition said he heard Ruby in the jail office say, "I hope I killed the rat son of a bitch," and on the elevator going to the fifth floor, he heard Ruby say, "I intended to shoot him three times."

Detective T. B. McMillon was interviewed on 11-25-63 and advised that he was present in the basement of the police building in immediate proximity to the shooting when it occurred. He heard Ruby say, "You rat son of a bitch. You shot the President," just before the shot was fired. After the shot, he heard Ruby say, "I hope I killed the rat son of a bitch" and also heard him state, "Don't you know who I am, I'm Jack Ruby." He was with the officers who took Ruby to the fifth floor and said he stayed with him until 3:25 p.m. McMillon when he testified at the trial on 3-5-64 attributed substantially the above statements to Ruby and also said that after Ruby was taken upstairs, he heard Ruby state that he meant to shoot Oswald three times.

Detective J. R. Leavelle was interviewed by Agents on 11-25-63 and on 12-10-63. He was handcuffed to Oswald escorting him at the time the shot was fired. He related in detail the incidents that occurred but related no conversation which he attributed to Ruby. On 3-4-64 Leavelle testified at the trial that at the time of the shooting he heard Ruby mumble something and within a minute after the shot was fired he heard Ruby state, "I hope the son of a bitch dies." Leavelle also said that at the time the gun was taken from Ruby's hand his hand appeared to be contracting as if to fire again. He did not make this statement to Agents when interviewed.

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Captain Glen D. King was interviewed on 12-9-63 and 12-10-63. King was in charge of press relations and was in the basement but not in immediate proximity to the shooting when it occurred. He related no conversation attributed to Ruby. In his testimony at the trial on 3-6-64, King said that after the shot was fired while Ruby was in the basement jail office on the way to the fifth floor, he overheard him state, "You didn't think I was going to let him get away with it did you?" King also said that on the elevator on the way to the fifth floor he said to Ruby "You dirty scum, you are the scum of the earth." He did not hear Ruby's reply.

Sergeant Patrick Dean was interviewed on 12-2-63 and 12-9-63. On 12-2-63, he stated that he was in the basement of the police building but was not in immediate proximity to the shooting when it occurred. After the shooting, he escorted Secret Service Agent Sorrells to the fifth floor to interview Ruby. He related no conversation which he attributed to Ruby. Dean was interviewed on 12-9-63 regarding a statement in the press which said that Dean saw Ruby enter the basement. Dean denied making this statement. At the trial of Ruby, Dean testified on 3-6-64 that when he took Sorrells to the fifth floor to interview Ruby he heard Ruby say that he had seen Oswald two nights previously at the press conference and he had at that time thought of killing Oswald, that when he saw how sarcastic Oswald was and the leer on his face he thought to himself that he would kill him if he got the chance.