

UNITED STATES GOVERNMENT

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Inv. _____
- Fin. & Pers. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
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- Telephone Rm. _____
- Director's Sec'y _____

TO : Assistant Director
Special Investigative Division

DATE: 8/3/77

FROM : Legal Counsel

SUBJECT: INQUIRY CONCERNING THE
JOHN F. KENNEDY ASSASSINATION

*Re President John F. Kennedy
FBI Records*

PURPOSE: To advise regarding one aspect of inquiry by [redacted] Concord, California, concerning the Bureau's procedures when an agent is called to testify, and the Bureau's investigation of one Clay Bertrand.

SYNOPSIS AND DETAILS: By letter dated 5/13/77, [redacted] Concord, California, inquired of President Carter concerning the FBI's procedures when an agent is called to testify in a court case, and why the Bureau investigated Clay Bertrand. This correspondence was forwarded by Carolyn A. Morse, Records Management Division, to Legal Counsel by routing slip dated 7/14/77.

The Legal Counsel Division has set forth in the next three paragraphs an appropriate response regarding testimony of Bureau Agents and restrictions applied to such testimony. Legal Counsel Division will not attempt to enter into a discussion regarding the Clay Bertrand investigation.

Attorney General Order No. 3464 (Supplement 4) (Revised), dated 1/13/53, and the explanatory memorandum promulgated therewith, articulate the policy that each Department of Justice attorney in charge of

- 1 - Mr. Fehl
- 1 - Mr. Decker
- (Attn: Miss [redacted])
- 1 - Mr. Mintz
- 1 - Legal Research Unit
- 1 - Mr. [redacted]

BAR:kg
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EX-131

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FBI/DCJ

Memorandum to the Assistant Director
Special Investigative Division
Re: Inquiry Concerning the
John F. Kennedy Assassination

any Government litigation, or any matter which may involve litigation, is authorized to determine, as he deems necessary or desirable to the discharge of his official duties, what information secured by the Federal Bureau of Investigation (FBI) shall be made available to a court, either during or preparatory to a judicial proceeding, to which the United States is a party, including any agent or Department thereof. No such attorney shall reveal or furnish any documents or information when by so doing, in his opinion, injury might be done to the public interest.

Furthermore, Title 28, Code of Federal Regulations (CFR), Section 16.21, et seq., sets forth procedures concerning the production or disclosure of information in response to subpoenas or demands of courts or other authorities. These regulations provide that when an Agent of the FBI receives a demand for production or disclosure of information relating to material contained in the files of the Department of Justice, the agent must immediately notify the United States Attorney who shall immediately request instructions from the appropriate Departmental official who is authorized to approve production or disclosure. Absent appropriate Departmental authorization, an FBI Agent is not allowed to give testimony regarding information which has been the subject of an FBI investigation.

In instances where testimony of an Agent has been authorized, the Agent is instructed to give his official status by stating that he is a Special Agent of the Federal Bureau of Investigation and to testify clearly, modestly, without bias or display of emotion, without exaggeration or misrepresentation. He is further instructed to avoid giving testimony not relevant to the case, and to prevent prejudice to the rights of the accused. Agents, during attendance at any trial, should avoid unnecessary contact or conversation with jurors or witnesses.

Memorandum to the Assistant Director
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Re: Inquiry Concerning the
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The above sets forth appropriate directions
and restrictions placed upon Bureau Agents when giving
testimony in a court of law.

RECOMMENDATION: That the Special Investigative Division,
Congressional Inquiry Unit, prepare a
response to the correspondent in this matter incorporating
comments of the Legal Counsel Division concerning conduct
and restrictions of agents when giving testimony and
answering the query in the last sentence of incoming
communication.

JF

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Asst. Dir. _____	Ident. _____	Rec. Mgmt. _____
Exp. AD Adm. _____	Intell. _____	Comm. Serv. _____
Exp. AD Inv. _____	Laboratory _____	Tech. Serv. _____
		Public Affs. Off. _____

JF