

MEMORANDUM

NOV 2 1976
DATE: THH:LRJ:plh
51-16-1113

TO : Richard L. Thornburgh
Assistant Attorney General
Criminal Division

FROM : Thomas H. Henderson, Jr.
Chief
Public Integrity Section

SUBJECT: J. Gordon Shanklin, Possible Violations
of 18 U.S.C. § 1621

Per your request, this Section has again reviewed the Final Report of the Select Committee to Study Governmental Operations With Respect to Intelligence Activities, United States Senate, and Criminal Division Records with a view toward re-evaluating an earlier decision not to prosecute or further investigate the above-named individual. Appendix B to the Select Committee's Report sets forth the factual background of the subject matter of this memorandum.

The Select Committee found, as was previously set forth in the Statement of Deputy Associate Director of the Federal Bureau of Investigation, James B. Adams, before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary on October 21, 1975; that Lee Harvey Oswald did visit the Dallas Field Office of the FBI some week to 10 days before the Kennedy assassination; that he asked to see Special Agent James P. Hosty, Jr., who had previously interviewed Oswald's wife; that upon being informed of Hosty's absence Oswald left a note for Hosty with a receptionist; and that the note was subsequently destroyed. The possible perjurious activity by Shanklin involves sworn testimony by him as to his knowledge of the existence and destruction of the Oswald note.

Pursuant to allegations made to the FBI by the "Dallas Times Herald" on July 7, 1975, the Bureau conducted an investigation of this matter. During that investigation, sworn statements were obtained from all individuals involved.

Nannie Lee Fenner, a clerical employee at the Dallas Field Office at the time in question, stated that Oswald came to the office, asked for Hosty, and left the aforementioned note after being informed of Hosty's absence. Fenner stated that Oswald signed the note.

Hosty stated under oath that he received Oswald's note and put it in his work box, where it remained until the assassination of President Kennedy. Hosty denied that

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the note was signed, and stated he was unaware of its author until later. Hosty stated on that day he informed Shanklin of the existence of a file on Oswald, and gave it to him. He stated the note was not in the file. On that same day, Hosty interviewed Oswald, who repeated the objection contained in the note to Hosty's "bothering" of Oswald's wife. It was this remark by Oswald which Hosty stated first caused him to connect Oswald to the note.

Hosty further stated under oath that upon his return to the office, he was met by Special Agent in Charge, J. Gordon Shanklin and Agent Supervisor, Kenneth C. Howe in Shanklin's office. Hosty stated that they had the note in their possession. Hosty informed Shanklin and Howe of the circumstances of the note and his interview with Oswald, after which Shanklin directed Hosty to reduce that explanation to writing. Hosty stated that he complied. Hosty further stated that he delivered the memorandum to Shanklin the same evening.

Hosty stated that on Sunday, November 24, 1963, he again met with Shanklin and Howe after Oswald's death. He stated that during that meeting Shanklin ordered him to destroy the note and the memorandum concerning it. Hosty complied. Later in the investigation Hosty, according to his statement, obtained a rough draft of a note from Oswald to the Soviet Embassy in Washington, D.C. When he informed Shanklin of the existence of this draft, which mentioned Hosty's name, Shanklin, apparently confusing it with the previously mentioned note, became infuriated and, according to Hosty, said, "I thought I told you to get rid of it." Hosty stated that Shanklin later explained his confusion, but again sought and received Hosty's assurance that the original note was destroyed.

Agent Supervisor Kenneth C. Howe, in a sworn statement given pursuant to the FBI investigation, said that he was aware of the note early on, and that it clearly came from Oswald. Howe stated that he found the note in Hosty's work box shortly after the Kennedy assassination and showed it to Shanklin. The delivery to Shanklin is vague in several of Howe's statements, but is definite in his July 21, 1975 sworn statement. Howe denies any knowledge of an order to destroy the note. Former Special Agent Ural E. Horton, Jr. stated under oath that in January of 1974 he discussed the Oswald note to Hosty with Shanklin.

Former Assistant to the Director of the FBI, William C. Sullivan, was interviewed during this investigation and related that at some time after the assassination, Shanklin in two separate conversations with Sullivan, mentioned the note from Oswald to Hosty.

Finally, J. Gordon Shanklin stated under oath to the FBI on July 21, 1975 and September 24, 1975, that he had no knowledge of the Oswald visit, the note, its destruction, or conversations about the note between himself and Horton or Sullivan.

The above statements having been obtained and provided to the General Crimes Section, that Section, on August 19, 1975, conveyed to your office certain suggested further investigative steps. (See Tab A). The first of these, con-

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(See Tab B).

On October 17, 1975, you communicated to the Deputy Attorney General that your review of the file did not indicate that an appropriate case for prosecution existed. (See Tab C). This decision was based on the rationale that perjury and obstruction of justice charges were of a "bootstrap variety." That is, false testimony given recently about events which occurred twelve years previously, and hence outside the statute of limitations. On October 20, 1975, the Deputy Attorney General, in a memorandum to the Director of the FBI, agreed with that determination, characterizing the decision not to go forward as an imminently fair and wise exercise of prosecutorial discretion. (See Tab D).

On Friday, December 12, 1975, the Washington Star reported testimony given on December 11, 1975 by Shanklin before the House Subcommittee on Civil and Constitutional Rights. The Star sets out that, "Shanklin . . . said he knew nothing of the Oswald letter to Hosty prior to last July (1975) when news of it first came to light. Additionally, the Select Committee's Report, Appendix B at page 97, cites testimony given by Shanklin on December 19, 1975, presumably before the Select Committee, in which Shanklin claimed that he had no knowledge of this entire matter until July of 1975.

*perjury
hosty*

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