1 - Mr. Callahan
1 - Mr. Adams
1 - Mr. Gallagher

The Attorney General

December 29, 1975

1 - Mr. O'Connell
1 - Mr. Peelman
1 - Mr. Lawn
1 - Mr. Wannall
1 - Mr. Moore

Director, FBI

REC-30

ASSASSINATION OF MARTIN LUTHER KING, JR.

Attached is a copy of a letter and envelope with enclosure dated December 15, 1975, received by this Bureau from James Earl Ray.

In his letter, Ray requests that no evidence or potential evidence be destroyed by the FBI or by the Department pending a decision on Ray's appeal before the U. S. Sixth Circuit Court of Appeals.

For your information, all physical evidence acquired by this Bureau during the course of this investigation was turned over to Tennessee authorities in October, 1968, pursuant to Departmental instructions received by this Bureau on October 24, 1968.

Receipt of Ray's letter has been acknowledged by this Bureau.

Enclosures (3)

1 - The Deputy Attorney General - Enclosures (3)

1 - Assistant Attorney General - Enclosures (3)
Civil Rights Division

1 - Assistant Attorney General - Enclosures (3)
Criminal Division

NOTE: See cover memorandum J. S. Peelman to Mr. Gallagher dated 12/24/75, captioned "MURKIN".

MAILED 7
DEC 29 1975
FBI

44-38861

JCL/pwl) 13 (

Assoc. Dir. ____
Dep. AD Adm. ____
Dep. AD Inv. ____
Asst. Dir.:
Admin. ____
Comp. Syst. ____
Ext. Affairs ____
Files & Com. ____
Gen. Inv. ____
Ident. ____
Inspection ____
Intell. ____
Laboratory ____
Plan. & Eval. ____
Spec. Inv. ____
Training ____
Legal Coun. ____
Telephone Rm. ____
Director Sec'y ____

MAIL ROOM ☒ TELETYPE UNIT ☐

84 JAN 15 1976

GPO 954-546

...lorence M. Kelly
...ector, F.B.I.
...shington, D.C.

December 15th 1975

re: Ray(def.) v. Tenn., Cr. indictment no.16645, Shelby county, Tennessee. (1968)

Dear Sir:

In reference to the above titled suit, I (the defendant) have been with the assistance of counsel pursuing this matter through the courts (rather than the press & committees) for the past six (6) years attempting to have the plea voided and thereafter receive a jury trial.

However, as of late several press releases have been received here with substantial misgivings, one with reference to your office cited below:

In the December 11th 1975 edition of the Nashville Tennessean newspaper it was reported that in responce to a question from United States Senator Barry Goldwater, before a Senate committee on 12/10/75, you implied that..."depending on the Justice Department decision whether to reopen the above suit, certain evidence,eg., FBI tapes & other material pertaining to the Dr. Martin Luther King jr. investagation, would be destroyed", or words to that effect.

Because of the aforementioned implied action by your office, and since unlike the former Director the defendant has not as yet been planted and thus can and still does intend to defend himself before the courts, I would respectfully request (or what ever phrase is legally necessary) that no evidence or potential evidence be destroyed by the FBI or it's parent Justice Department until the courts, rather than the J.D., have made a final determination on the merits of the Habeas Corpus appeal now pending before the United States Sixth circuit court of appeals. See, Ray v. Rose, case no. 73-1544.

RFC-317

17 JAN 8 1976

Further, their should be a final determination in the cr. appeal before the windup of 1976; however, thereafter, apparently under Tennessee case law a defendant can, after the Sup. Ct. denies certiorari if it does herein, file a civil action as a collateral to the cr. action but any legal action with reference to criminal or civil can be concluded within a relatively short period in the evidentiary phase of the proceedings and thus the herein legal request that the Government not destroy any evidence in the matter does not appear to be inconsiderate or inappropriate.

The defendant is also not convinced, contrary to press speculation, that the material in question is in sum salacious in nature as it is inconceiveable the Bureau would conduct a protracted investagation looking exclusively for indecorous matter-- and the defendant would expect no evidence be destroyed relieing on such an explanation.

In a related matter, during the Watergate hearings & trials their was considerable vexation in the communications industry and their political go-betweens because of speculation in the same industry that the White House tapes and other potential evidence might be destroyed or altered thus an "obstruction of justice".

I don't expect the same vexation in the instant matter but I believe the courts did subsequently rule said White House tapes were legitimate evidence and under the same rationale the material your office has implied it would destroy would appear to be "litigimate evidence".

Further, Title 28 section 534 of the U.S. code might preclude the destroying of evidence; also, see attached clipping wherein the U.S. court of appeals for the District of Columbia ruled that "full sanctions" would in the future be invoked if the Bureau destroyed evidence which could provide information or leads for cr. defendants.

In summary, I believe the defendant, concurrently with the courts, has a substantial legal standing in this matter having been sentenced to an extended prison term in 1969 under the indictment and until just recently confined under primitive (solitary confinement) conditions and for the Government's agents to be burning potential evidence on the eve of a possible supreme court ruling, or ratifying a lower court ruling, reversing the defendant's conviction because of Fraud would appear to be Actionable.

Concluding, maybe it's custom that some type restraining order be filed with the courts to enforce the aforementioned request but where the petitioner, as defendant is, indigent the courts customarily put a liberal interpretation on matters of the instant quality.

(a copy of the foregoing letter will be posted to the A.G. for Shelby county, Tennessee, as Tennessee apparently still has jurisdiction in the indictment and interest in the subject matter.

Sincerely: defendant, James e. Ray #65477
Station-A
State prison
Nashville, Tn. 37203.

cc: Barry Goldwater, U.S. Senator
cc: Hugh Stanton jr., Esq. A.G. Shelby ct.Tn.
cc: defendant's counsel

FBI Ordered To Keep Notes

By DAVID PIKE
Washington Star

WASHINGTON — The Federal Bureau of Investigation has been told by the U.S. Court of Appeals for the District of Columbia that its agents here must keep the rough notes they take while interviewing witnesses to a crime.

In an opinion written by Judge J. Skelly Wright, a three-judge panel of the court ruled Monday that such information may later be found by the courts to be helpful to a defendant and therefore relevant to a case.

THE APPEALS court said that District of Columbia police have been preserving such notes since an appellate court ruling in 1971, but that FBI agents, as a matter of practice, continue to throw away such notes after a report based on them has been prepared.

Wright's opinion said that such behavior by the FBI, in view of various earlier court rulings, was "negligence" but not "bad faith."

The ruling came in the case of three men convicted of the armed robbery of a Washington, D.C., savings and loan in March 1972.

THE APPEALS court upheld the convictions despite destruction of the FBI notes because, it said, D.C. police had kept their interview notes and because "the evidence of guilt adduced at trial was overwhelming."

However, Wright's opinion said, "full sanctions will be invoked in future cases unless the FBI's practices are modified ...

"The reports contain the agents' narrative account of the witness statement, prepared partly from the rough notes and partly from the agents recollection of the interview," the court said.

"ALTHOUGH THE agents are trained to include all the pertinent information in the report, there is clearly room for misunderstanding or outright error whenever there is a transfer of information in this manner."

Outlining the impact of the present practice, the court said:

"Whether or not the prosecution uses the witness at trial, the notes could contain substantive information or leads which would be of use to the defendants on the merits of the case. If the witness does testify, the notes might reveal a discrepancy between his testimony on the stand and his story at a time when the events were fresh in his mind. The discrepancy would obviously be important for use in impeaching the witness' credibility."

THE GOVERNMENT had argued that keeping the rough notes would impose "an intolerable administrative burden on the bureau."

But the judges found that the average report was only two pages long, and the notes usually shorter. They concluded that preserving the notes would not create "unsuperable space problems."

The opinion suggested such methods for preserving the agents' notes as reducing documents to microfilm or simply stapling the notes to the report.

Oil Find Gets In Way Of Digging for Water

SAN ANTONIO, Tex. (AP) — Striking oil is usually a cause for celebration, but to the well-digging crew at the Patio Mexican Foods plant, finding the black gold was little more than an annoyance.

In fact, the crew hit oil, albeit a poor grade, five times before they finally found the water they were drilling for 1,400 feet underground.

"I was beginning to wonder if we'd ever find the water we needed with all that oil getting in the way," said plant manager Ralph Cornwell. "But now we have our own water well and it looks like we may even have a 30-year supply."