

REPORT ON DR. KING MISFILED, F.B.I. SAYS

Agent Broke Rule in Handling Data on Allegation of Death Plot

— Simple Error Cited

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WASHINGTON, July 26 — Information concerning an alleged plot to assassinate the Rev. Dr. Martin Luther King Jr. remained unchecked for five years because an agent in the Federal Bureau of Investigation's St. Louis field office disregarded a basic regulation concerning the dissemination of criminal information, bureau officials acknowledged today.

Homer Boynton, the chief spokesman for the bureau, said the handling of the information had been in "violation of established rules and procedures." But he also said the bureau was convinced that the mishandling resulted from an "administrative error" and not from any attempt to block a full investigation of the murder, which occurred five years earlier.

Mr. Boynton said that the agent responsible had retired some time ago and that no formal inquiry was planned. He also said that the bureau would not investigate the alleged assassination plot because of an agreement with the House Select Committee on Assassinations not to investigate matters also being studied by the committee unless the committee asks it to do so.

Although Mr. Boynton dismissed the matter as an honest error, a number of F.B.I. and Justice Department sources said the disclosure was causing "great embarrassment" at bureau headquarters.

They also noted that the failure to investigate the allegations promptly might have been costly, because the second of the two men said to have offered \$50,000 for the murder of Dr. King has since died, making the story far more difficult to corroborate or discredit.

The allegations were first transmitted to the bureau in 1973 by an informer who told an agent in the St. Louis office that Russell G. Byers, a former auto parts dealer in that city, had said that he was offered \$50,000 in 1966 or 1967 to arrange for the murder of Dr. King.

The agent, whom F.B.I. officials today refused to identify, reportedly prepared a report containing the information, placing one copy in a file on the informer and another in a file on Mr. Byers. Bureau officials said the agent did not, however, follow a regulation requiring agents to forward any information about a specific crime to agents working on the case.

Report Found in Theft Inquiry

"He may have thought it was a frivo-

lous allegation, but that wasn't his decision to make," said one F.B.I. source, who did not want to be identified by name. "The information was supposed to go to a supervisor or some agent who had worked that investigation for them to evaluate."

The information did not surface until about four months ago, when an F.B.I. agent checked the file on Mr. Byers, who had been implicated in the theft of a statue from a St. Louis museum. Bureau officials said the agent realized that the information had never been disseminated and took it to a supervisor, who sent it to bureau headquarters in Washington.

The Justice Department then transmitted the information to the House committee, which, as reported in yesterday's

issue of The New York Times, subsequently obtained sworn testimony from Mr. Byers that the proposal had been made to him on behalf of an unnamed businessmen's group by two Imperial, Mo., men, John H. Sutherland and John R. Kauffmann.

Mr. Sutherland, a patent attorney who had headed the St. Louis branch of the Citizens' Council, which opposed much of the civil rights legislation of the 1960's, died of a heart attack in 1970.

Mr. Kauffmann, a former stockbroker and real estate investor, died in 1974, the year after the information about the alleged plot was given to the F.B.I.

Mr. Byers's testimony has not been corroborated by any physical evidence, and the widows of the two men he named have said they do not believe their husbands could have been parties to any such scheme.

The House committee, however, is pursuing the allegation intensely, partly because of a series of circumstantial links between Mr. Byers, the two men and people inside the Missouri State Penitentiary, where James Earl Ray, later convicted of killing Dr. King, was incarcerated at the time of the alleged offer.

Mr. Ray escaped from the prison on April 23, 1967, almost a year before Dr. King's slaying in Memphis on April 4, 1968.

One subject of the House committee investigation is Mr. Byers's brother-in-law, John Spica, who at the time was serving a life sentence for murder in the same prison as Mr. Ray. Mr. Spica was paroled in 1973.

On Monday, Mr. Spica angrily refused to answer any questions by two reporters for The Times, and ordered them in harsh tones to leave his property.

Byers Called a Liar

In today's editions of The St. Louis Post-Dispatch, he was quoted as saying that Mr. Byers was "a liar." Mr. Spica also said that he had never heard about, and had not conveyed to Mr. Ray, any offer of \$50,000 for the murder of Dr. King.

"You know I'm out on a life parole on a murder case and this'll blow it," Mr. Spica, who operates a fruit stand, was quoted as telling the St. Louis paper. "I've been working in this stand 12 to 15 hours a day for two years without a vacation. I've been going with a very nice girl who doesn't know all my background and it'll blow that too. I guess I'll just have to close up because I won't have any business any more."

Mr. Byers, who told the committee that he had rejected the proposal he said had been made by the two men, told The Times that he had not mentioned it to Mr. Spica during the time Mr. Spica was in prison. But he said he assumed that word of a bounty on Dr. King's life could have reached the prison by other routes.

A 1977 report on the King assassination by a team of Justice Department attorneys said it was widely rumored in the Missouri State Prison during Mr. Ray's incarceration there that such a bounty existed.