

- 1 - Mr. J. B. Adams
- 1 - Mr. J. J. McDermott
- 1 - Mr. H. N. Bassett
- 1 - Public Affairs Office
- 1 - Legal Counsel Division
- 1 - Criminal Investigative Div.
- 1 - Mr. D. Ryan
- 1 - Mr. G. J. Foster

November 16, 1978

HOUSE SELECT COMMITTEE ON ASSASSINATIONS (HSCA)
STAFF REPORT
INVESTIGATION INTO THE ASSASSINATION
OF DR. MARTIN LUTHER KING, JR.:
AN ANALYSIS OF THE PERFORMANCE OF
THE DEPARTMENT OF JUSTICE AND THE
FEDERAL BUREAU OF INVESTIGATION

~~CONFIDENTIAL~~

3/18/80
 Classified - ~~Secret~~
 Declassify on: OADR

Reference is made to letter to the Attorney General from G. Robert Blakey, Chief Counsel and Director, HSCA, dated November 6, 1978. This letter attached a staff report of the HSCA entitled "Investigation into the Assassination of Dr. Martin Luther King, Jr.: An Analysis of the Performance of the Department of Justice and the Federal Bureau of Investigation." Anticipated release date of this report is November 27, 1978.

Referenced letter requested this report be reviewed by appropriate officials of the Department of Justice and, unless the HSCA is advised otherwise within five days, the HSCA will assume that the Department has no objection to publication of the document in its entirety. On November 8, 1978, Mr. Robert L. Keuch, Deputy Assistant Attorney General, Criminal Division, advised that Mr. Blakey agreed to extend the deadline for review of captioned report and submission of observations of same to the close of business November 16, 1978.

After a review of captioned report by appropriate officials at FBI Headquarters (FBIHQ), the following objections and observations concerning its contents are set forth for information of the Department of Justice and the HSCA. It is requested that the HSCA give consideration to modification of its report in line with the below:

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

(1) The identification of Agent names in this report is a concern. In previous reviews of our King investigation, the Senate Select Committee in 1975 and a task

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JTA:lfj
 (11)

MAIL ROOM

APPROVED:

- Director _____
- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____

- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____

- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____

SEE NOTE PAGE 7

ENCLOSURE

62-117290-1315

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force of the Department of Justice in 1976-1977 agreed, at our request, not to publish the identities of Special Agent personnel below the level of Section Chief. Although no written verification was received from the HSCA on this point, Mr. Blakey has orally stated to representatives of the FBI that the HSCA would also follow this practice. It has not done so in several parts of the report, notably the last section where the security case Agent in Atlanta is identified by name. It is believed, particularly with reference to the King security case, that disclosure of an Agent's identity could jeopardize his personal safety.

(2) On pages 28 and 29, the FBI's investigation cost figures show marked decrease in cost and miles driven on a nationwide basis after Ray's arrest. Although figures quoted are accurate, it should be noted that in any major investigation the cost and miles driven will be reduced drastically after its initial stages. At first, the investigation is broadly based with leads in many areas. As the investigation narrows, the cost and miles driven will logically decrease.

(3) With respect to the filing of the complaint against Ray, on page 45 it is stated "there is no indication in FBI files that the selection of a filing location was discussed with the Attorney General in Washington until after the fact." This criticism was also made by the Office of Professional Responsibility (OPR) of the Department during its review of the King case. However, according to an internal memorandum of the Birmingham Office, the United States Attorney in Birmingham informed the Special Agent in Charge (SAC) that he had contacted the Attorney General, who stated he authorized prosecution of Ray, but he (Attorney General) was not aware where the process was to be filed since that was a decision for FBI officials. The HSCA had access to this memorandum in Birmingham file 44-1740-1005. While it is true that no documents could be found

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indicating a filing location was discussed with the Attorney General before the fact, the Birmingham memorandum indicates the Attorney General was willing to leave the location selection up to Bureau officials.

(4) On page 52, the HSCA statement that the "one-way street" posture of the FBI precluded possibility of a close working relationship with local authorities is unwarranted and should be corrected. Our relationship with local authorities in the King murder (MURKIN) investigation was highly satisfactory and productive. Even the Committee report describes our relations with Memphis authorities as "harmonious." Further, in its own investigation the HSCA asked the FBI on two occasions to mediate a matter with a local police department. This may not have been possible if our one-way relationship with local authorities is described accurately by the HSCA.

(5) On page 55 of this chapter, paragraph two, the date of Ray's guilty plea is March 10, 1968. This date should be March 10, 1969.

(6) The HSCA states on page 58, paragraph 1, that, "underlying the Lomax memos" is a clear concern on the part of the FBI that "a private investigative reporter would break the case before the nation's largest and most famous investigative agency." This statement is a good example of pure conjecture by the Committee, and removal of the statement is requested.

(7) In spite of the statement of former Assistant Director Bishop that the Bureau did not cooperate with any author on the King case and HSCA statement on pages 62-62 that no evidence to that effect was found in FBI files, the HSCA still attempts to leave that impression. It is also noted

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the "striking similarities" in the author's book could have resulted from data in possession of the Department or local prosecuting authorities, and not the FBI.

(8) On page 76, the HSCA notes that despite the potential for imaginative investigative efforts offered by the use of court-authorized electronic surveillance in the Omnibus Crime Control and Safe Streets Acts of 1968, there were no further attempts to implement same. It should be pointed out to the HSCA that even after passage of this act, the FBI was precluded by Departmental Order from using court-authorized electronic surveillance in criminal cases. On June 19, 1968, when President Johnson signed Title III of that statute into law, he publicly stated "the policy of this administration has been to confine wiretapping and eavesdropping to national security cases only. . . This policy, now in its third year, will continue in force." President Johnson went on to say that on that date he instructed the Attorney General to assure this policy was followed by all law enforcement officers. Subsequent attempts to obtain Attorney General approval to seek a court order in criminal cases were disapproved, citing this policy. Therefore, the "potential for imaginative investigative efforts offered by the act," according to the HSCA, was not available to the FBI. Also, the HSCA has personnel familiar with passage of this act who can be consulted as to its application concerning the FBI.

(9) On page 74, the HSCA states that the willingness of the FBI to propose electronic surveillance against Ray's family, after recognizing internally its unconstitutionality nature, showed an absence of concern for the rights of surveillance targets. This recognition of the unconstitutionality of this surveillance was recorded in an internal FBI memorandum discussing all legal aspects of the installation. It should be noted that the final determination as to such legality rests not with the FBI, but the Department of Justice, which can approve or disapprove the request.

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(10) On page 92, the HSCA states, other than canvassing informants during various stages in the investigation, the Bureau's investigation of possible hate groups involvement was "both limited and unimaginative." The HSCA fails to note that regarding hate groups in 1968, it is believed our informant coverage was more than adequate to detect information of such substance as a hate group plotting assassination of King. The HSCA fails to take this into consideration. Further, alibis of key hate group officials were checked out and any positive information received alleging hate group involvement was thoroughly investigated.

(11) In Section VIII, the HSCA notes FBI emphasis on interviews of Ray's relatives, but no objective effort was made to provide in detail the extent of such contacts. The file reflects relatives of Ray were interviewed on approximately 102 separate occasions. The majority of these, in the period of a few months, involved Jerry Ray, brother, 22 interviews; John Ray, brother, 18 interviews; Jerry Raynes, father, 15 interviews; Carol Pepper, sister, 14 interviews; Albert Pepper, brother-in-law, four interviews; Susan Donian, sister, five interviews; and John Gawron, step-father, 16 interviews.

(12) The analysis does not state whether or not the HSCA determined if Ray actually killed King. No doubt future findings in this regard will be issued. However, it is believed that any analysis of the Department's and FBI's performance in the assassination investigation cannot be complete without an assessment of Ray's guilt or innocence. In this regard, the HSCA's analysis fails to address this central point and, therefore, its value to the American people is weakened.

(13) It is noted that the FBI objects in some instances to language in the report which is considered inflammatory, nonessential to the facts of the case, and obviously used to malign the FBI. These instances are:

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page 43, paragraph 1, "agency's arrogance"; page 57, paragraph 2, "remarkable memo"; page 75, paragraph 1, "reckless disregard"; page 79, paragraph 2, "insatiable curiosity"; page 80, paragraph 2, "no less than three letters"; page 92, paragraph 1, "a simplistic view of the law of conspiracy"; and page 98, paragraph 3, "patently illegal."

(14) On page 81, the report discusses receipt of information from [REDACTED] on [REDACTED]. This information, so specifically written, tends to identify this informant. The HSCA should delete the specific date and any reference to information coming from [REDACTED]. Unless this action is taken, it will be necessary to classify this portion of the report. b7D

Also regarding informants, reference is made to page 57 where it is stated that to monitor the activities of an investigative reporter, [REDACTED]

[REDACTED] While this passage does not tend to identify any specific individuals, the FBI would prefer the HSCA avoid such direct reference to the location of FBI sources. b7D

Other than the above, release of the report publicly will not identify FBI sources, informants or sensitive ongoing operations.

(15) [REDACTED]

(c) b1

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[REDACTED]

b1
(c)

CLASSIFICATION

[REDACTED]

b1

paragraph will be unclassified. - this (c)

Other than the above, there are no problems concerning the report as to classification.

NOTE: See memorandum D. Ryan to Mr. Bassett dated 11/16/78, captioned as above.

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