

memorandum

APR 22 1977

DATE:

REPLY TO
ATTN OF:

~~Robert L. Keuch~~
Robert L. Keuch
Special Counsel to the Attorney General

RLK:mal

SUBJECT:

Status Report

RLK-

Approved - Good job

4/28/77

FB13

APR 25 1977

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OFFICE OF THE
ATTORNEY GENERAL

TO: The Attorney General

This is to brief you on the steps I have taken in establishing and conducting liaison with the House Select Committee on Assassinations. In accordance with my conversation with Mike Kelly, it is my present intention to provide you with such reports approximately every two weeks.

I have met personally with the Chairman and the ranking minority member of the full Committee and with the Chairman of the Subcommittee on the Kennedy assassination matter and will meet in the very near future with the Chairman of the King Subcommittee. I informed each of the gentlemen that it is the Department's desire to be cooperative and as open and candid as we can possibly be and that in those areas where there are disagreements I will make every attempt to explain fully our position and to work the matter out consistent with their interests and the needs of the Department. These meetings, being the first, were cordial and of no great import.

I have agreed to expand the number of individuals to be given priority clearances to approximately 12-15 in order to take care of the major staff positions of the full Committee and the major staff positions for each Subcommittee. The Chairman of the Committee executed the Agreement of Understanding concerning the use to which information developed by the clearance procedures would be put and which you had previously executed and the Bureau has initiated a number of these clearances. I have been informally advised by the Security Director for the Committee staff that the Committee may wish to ultimately request clearances for as many as 80-90 members of the staff. It is my intent, should the number of requested clearances go significantly beyond 15-20 positions to raise the question of reimbursement by the Committee for the costs of the clearance procedures for people other than the most essential staff.

cc: Records
RLK

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In numerous conferences with Committee staff we have worked out generally procedures to be followed in processing the Committee's requests for information. I have required that all requests be signed by the Chairman and that the number of individuals in the staff who would contact either me or the designated Bureau representatives be limited to approximately four people. After consultation with the Committee staff and Bureau representatives, I have set up a procedure for providing the Committee with information relating to any ongoing investigations in their areas of interest and have agreed that in special circumstances I will, after consultation with the Bureau, direct special notification on a priority basis when appropriate.

In response to questions from the Chairman of the Committee relayed by Committee Counsel, I stated that the Department is not and will not conduct a full de novo investigation into either the King or Kennedy assassinations but that our investigative efforts will be limited solely to exploring any new allegations or leads which may develop. The Committee staff has stated that they will provide us promptly with any information involving criminal activities.

After numerous attempts to develop a full set of written procedures to cover all contingencies, I have concluded that the appropriate method to follow is to process each request on an ad hoc basis. Those materials that can be provided will, of course, be provided and those areas in which I determine that information cannot be provided to the Committee staff because it involves extremely sensitive national security information or information otherwise critical to our investigative efforts, I will notify the appropriate Chairman, either the Chairman of the full Committee or the Chairman of the appropriate Subcommittee and explain the Department's concerns. Should these gentlemen disagree with my judgment then the matter, of course, will have to be referred to you for decision. I believe such material will constitute a very minute amount of the materials requested and will make every effort to make your necessary participation in these decisions as limited as possible.

The Bureau and I are presently processing the lists of requests made by the Committee in the Chairman's letter to you of March 9. This will include among other things making Mr. Pottinger and Mr. Shaheen available for interviews with the staff and producing the interview reports related to the King Task Force report. At the present I see no problems in providing the items that they have requested to date.

As you are aware the Committee received information that a Louisville police officer claimed he was approached by FBI agents to kill Dr. King. The Committee has obtained a tape from the officer which is allegedly of this conversation. The Bureau was authorized to interview the police officer in the presence of the United States Attorney, however, the police officer, Mr. Baird, has refused to be interviewed by the Bureau. The Committee has agreed to provide the tape recording for duplication by the Bureau and have further agreed to maintain strict custody control of the tape so that the necessary chain of custody could be established should the tape possibly be ever used as evidence.

I must unfortunately end on a negative note. There is one area in which the Committee staff and I have been unable to reach agreement. The FBI has been provided with metal fragments by an individual who claims they were obtained in Dallas at the time of the Kennedy assassination and who further claims they are part of the bullets that were fired at the former President. When the Bureau attempted to obtain the test bullets from the Archives, the archivist sought the advice of the Select Committee who informed the archivist not to deliver the test bullets in the Archives without the Committee's authority. The Committee insists that any tests run by the Bureau's laboratory involving test bullets and the metal fragments be run only in the presence of a member of the Committee staff. The staff has expressed to me that their sole purpose is to insure the custody of the bullets and to insure that the bullets obtained from the Archives are the ones returned to the Archives when the tests are completed. The Bureau has expressed great concern over this procedure on the grounds that it would cast serious doubts on the integrity of the Bureau laboratory and would act as a precedent

for claims by criminal defendants that they should be entitled to have counsel or other representatives present when such tests are made in future cases. I concur in the Bureau's concerns even recognizing the particular nature of the Committee's inquiry and given the fact that we could argue that this situation is sui generis. As an alternative, I suggested and the Bureau agreed, that a representative from the Archives be present at all times to control the custody of the test bullets and to insure their proper return. This seems to me to answer the Bureau's concerns and at the same time satisfies the Committee's expressed need to maintain the integrity of the custody of the test bullets. The Committee staff has rejected this alternative and insists on the presence of their own representative. I have informed the Committee staff that in light of that determination we will in all probability return the fragments to the individual in Texas but will give notice to the Committee since they have indicated they will then issue a forthwith subpoena to the individual for the fragments so that they will be delivered into the Committee's hands once they left FBI custody.

I would particularly note here that the bullets we are talking about are merely test bullets that were fired by the rifle used by Oswald and are not bullets involved in the actual shooting in Dallas. Similar test bullets could be obtained any time the rifle was fired. Moreover the particular test bullets presently in the Archives have in fact been removed by us for similar testing on a number of occasions in the past few years. The Committee's position on this matter seems particularly unnecessary in view of these facts, given what I consider to be the very serious problems attendant upon the procedures they wish to follow. I believe our alternative offer of observation by a representative of Archives is a just and appropriate solution.

I have outlined this problem to you in some detail because I have been informed that should our position remain the same, the Chairman will ask to speak to you about this matter.