

He who passively accepts evil is as much involved in it as he who helps perpetuate it.
He who accepts evil without protesting against it is really cooperating with it....
Martin Luther King, Jr., 12/65, Birmingham bus boycott

quotation file

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The Levi "task force" report pretends to criticize the FBI. One of the few reasons for the essential trivial criticism is because the FBI filed a conspiracy charge in Birmingham rather than Memphis because "we cannot rely on the U.S. Attorney at Memphis." Two internal memos to Martha DeLoach disclose the real reasons. The "task force" did not. Naturally enough when the law required that I be given these pages the FBI contrived a phoney exemption to withhold them from me. (I obtained them March 4, 1977.)

Once it was decided to file the conspiracy charge the ^{first (Serial 1555)} first memo states "Under the statute being used the complaint can be filed in any district in which the conspiracy took place or an overt act occurred...limited to filing the complaint at Memphis or Birmingham."

(Serial 2579)

The second memo explains that the charge was filed in Birmingham because the "overt act" of purchasing the rifles was in Birmingham. Except for tense both use identical language about not being able to "rely on the U.S. Attorney at Memphis." Both ~~xx~~ next state "we would immediately loose control of the situation." The first only given the reason, "the complaint would become public knowledge."

Yet it concludes that "charges should be immediately filed and Galt's fugitive status should be given the widest possible publicity." And under "ACTION" first is "He should file the proposed complaint at Birmingham." After other recommendations, normal and proper, like "issue a wanted flyer and a fugitive press release," last, almost an afterthought is "At the appropriate time the Attorney General should be advised." The Attorney General is not asked or consulted. After the fact and whenever ~~the~~ Hoover considered "the appropriate time" he would be told. After all, he was ~~only~~ the Attorney General.

The real reason for not filing in Memphis from this record is not apprehension about the United States Attorney there. It was fear that the FBI could not hog the publicity it plotted/ "immediately." That "the complaint would become public knowledge" was certain once it was filed. It also was the FBI's desire, a proper desire. The only difference is that it feared that in Memphis the federal prosecutor would have made the announcement instead of Hoover in Washington. His release was drafted and approved before the complaint was filed.

This is what was most urgent while the cities were still aflame, ~~hugging headlines~~ ~~headlines~~ headlining Hoover. To assure it all under him in the FBI were willing to run some risk. As explained to DeLoach, which really means to Hoover through him, it is "We have checked with Birmingham and we have no assurance we could keep a complaint filed there a secret." Keeping it secret meant only long enough to have the filing reported back to Washington so the prepared release could be distributed. The reason they feared a leak in Birmingham is because "the U.S. Attorney is presently in Houston." The FBI that was not careful ~~when~~ when its filed bulges with threats again King's life was careful over losing a headline for Hoover. Headquarters had the Birmingham office investigate in advance. This is how it learned that the trusted United States Attorney was in Texas.

In Birmingham it faced a other possible catastrophe: It would have to file the complaint with the United States Commissioner, also duly investigated. The sexism of what followed is not in the "task force" report: ~~she~~ "The U.S. Commissioner is a woman who does not have too firm a grasp on her operation."

For the FBI this was kind, especially so considering that the "operation" was no more than a rubber stamp.

They decided to risk "a woman who does not have too firm a grasp on her operation" in preference to a United States Attorney who might tell the press ~~of~~ which he should have done.

What in fact the FBI planned with maximum fanfare - only in Hoover's name.

The memos do not say, as the "task force" also did not say, that there was another and for the FBI a very real problem if it let the Department of Justice do the proper business of the Department of Justice and file criminal charges. If a conspiracy charge had been filed in Memphis there could not have been a Memphis State prosecution predicated upon the certainty that there had been no conspiracy.

There was a reward for all Hoover's underlings in this manipulation of the filing of criminal charges and the control over subsequent events from that manipulation.

There are six sets of initials appended to the second memo. Most important is the approval "OK H.C. Hoover"

Memorandum to Mr. DeLoach
RE: MURKIN

conspiring to interfere with the constitutional rights of Martin Luther King, Jr. Galt has been identified as being James Earl Ray.

Under the statute used, the complaint can be filed in any district in which the conspiracy took place or an overt act occurred. Since the shooting occurred in Memphis and the gun had been purchased in Birmingham, consideration was given to filing the complaint at Memphis or Birmingham. It was our understanding that we could not rely on the U. S. Attorney at Memphis and if we attempted to file the complaint there, we would immediately lose control of the situation. Therefore, the complaint was filed at Birmingham where, on the basis of facts then available, the first overt act in furtherance of the conspiracy was committed. Based on the complaint, the U. S. Commissioner then issued the warrant of arrest.

ACTION:

In light of the above it is recommended that Congressman Selden be advised along similar lines to the acknowledgment made by Mr. Lindenbaum. Congressman Selden is being advised that since the complaint alleged a conspiracy which on the basis of facts available, began in Birmingham the warrant was obtained in that city. Attached for approval is a letter to Congressman Selden. A copy of our acknowledgment to Congressman Selden is being furnished to the Attorney General, Deputy Attorney General and Assistant Attorney General Stephen J. Pollak, Civil Rights Division.

[Handwritten initials]

[Handwritten initials] ✓

[Handwritten initials]

Memorandum to Mr. DeLoach
RE: MURKIN

Under the statute being used the complaint can be filed in any District in which the conspiracy took place or an overt act occurred. On the basis of facts presently available, we are limited to filing the complaint at Memphis or Birmingham.

We understand that we cannot rely on the U. S. Attorney at Memphis. If we tried to file there, we would immediately lose control of the situation and the complaint would become public knowledge.

We have checked with Birmingham and we have no assurance we could keep a complaint filed there a secret. We would have to go through the U. S. Attorney's Office and Macon Weaver, the U. S. Attorney, is presently in Houston. The U. S. Commissioner is a woman who does not have too firm a grasp on her operations.

Investigation at the Canadian address given by Galt, 7/31/67, has not been productive and a Kansas City address as of 3/1/67, that we obtained in Canada is nonexistent. Galt is last known to have been in Atlanta, 4/5/68, and his present whereabouts are unknown. We are faced with the danger that he may leave the country before he is located.

In view of the above circumstances, it now appears charges should be immediately filed and Galt's fugitive status should be given the widest possible publicity.

ACTION:

1. We should openly file the proposed complaint at Birmingham.
2. We should issue a wanted flyer and a fugitive press release.
3. We should issue an Identification Order even though no fingerprints are available.
4. At the appropriate time, the Attorney General should be advised that circumstances have required the action being taken.