

8 DECEMBER 1990

TO: HARRISON EDWARD LIVINGSTONE
AUTHOR

FROM: RICHARD L. WAYBRIGHT JR.
INVESTIGATOR

SUBJECT: FBI FILE RELATIVE TO AUTOPSY PHOTOGRAPHS

Harry,

The attached Justice Department files are relative to the theft and sale of the Kennedy Autopsy Photographs. They were obtained from the files of Harold Weisberg.

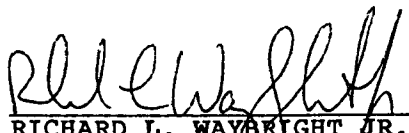
David Saulsbury currently has filed an appeal on the denial of his request to obtain a copy of the attached reports without the names being blacked out. I will inform you of the results of his appeal.

My interpretation of these reports is as follows:

- 1) They refer to you, Robert Groden, and one other unidentified person.
- 2) They were denied permission to interview you because you were a journalist.
- 3) They think Groden stole the pictures by photographing them.

My only question to you about the reports is:

- 1) WAS THERE ANOTHER PERSON INVOLVED WITH YOU AND GRODEN?
- 2) IF SO, WHO????


RICHARD L. WAYBRIGHT JR.
RESEARCHER

UNITED STATES GOVERNMENT

Memorandum

TO : William H. Webster, Director
Federal Bureau of Investigation

DATE:

FROM : Robert L. Keuch
Special Counsel to the Attorney General

RLK:LL:JIF:dls

SUBJECT: John F. Kennedy Autopsy Photographs

Reference is made to my memorandum to you dated February 20, 1980, and to an FBI report dated March 18, 1980 from the Washington, DC, Field Office and entitled UNSUB(S), Possible Theft of John F. Kennedy Autopsy Photographs, regarding the investigation of an alleged theft of John F. Kennedy autopsy photographs. You may recall that former Chief Counsel and Staff Director of the U.S. House of Representatives Committee on Assassinations, G. Robert Blakey, informed the Criminal Division [REDACTED]

[REDACTED] was attempting to sell "original" autopsy photographs to the media. Blakey further indicated that representations were made during the attempted transactions that the photographs exhibited evidence of tampering. 7C

The FBI interview [REDACTED]

Since [REDACTED] in these dealings, I feel that an FBI interview of [REDACTED] remains the only investigative method available in the effort to determine the source and content of those photographs. The primary goal in such a proposed interview should be to determine whether any evidence actually exists to indicate that tampering with J.F.K. assassination photographic evidence, original photographs or official copies, has occurred. A secondary goal should be to discourage the unlawful sale of unauthorized photographs and to recover any photographs which are actually Government property. 7C

As indicated in my memorandum of February 20, 1980, an element of a theft of Government property charge in this matter will be that the defendants stole or embezzled the photographs or that they converted or possessed them with knowledge of their stolen or embezzled status. Though it is unlikely that the person who created the unauthorized photographs did so under a claim of right, it is also unlikely that [REDACTED] were involved in that stage of the offense. It will thus be difficult to show their knowledge of the fact that the photographs were stolen or embezzled, absent an admission to the contrary. Additionally, the Department's policy (as set forth at 9-2.024 of the United States Attorneys' Manual) for Title 18, United States Code, Section 641 prosecutions in matters involving the theft of intangible

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Cabbage (1)

property for the purpose of public dissemination would appear to prohibit such a prosecution. If a Government employee "stole" the information, it may be claimed that his intent was to expose the tampering — as a "whistleblower." [REDACTED] would appear to fall firmly within this declination policy as a [REDACTED] 7c
7c [REDACTED] who has apparently obtained access by "non-trespassory means" to a Government document which he intends to publicly expose.

A gap in our investigation of the J.F.K. assassination will exist until we can examine this alleged evidence of tampering with photographic exhibits used by the Committee. Additionally, it would appear appropriate for the Department to attempt to prevent the dissemination of these photographs, in respect for the contractual agreements between the Kennedy family and the Government. Accordingly, it is requested that the FBI interview [REDACTED] 7c
Copies of investigative reports should be referred to the Criminal Division.

Typed: 2/14/80

Director
Federal Bureau of Investigation **7C**
Attention: **[REDACTED]** Special Agent
General Government Crimes Unit

20 FEB 1980

RLK:LL:JIF:jad

Robert L. Keuch
Special Counsel to the Attorney General

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John F. Kennedy Autopsy Photographs

The former Chief Counsel and Staff Director of the United States House of Representatives Committee on Assassinations, G. Robert Blakey, informed the Criminal Division on August 27, 1979, that a "consortium" was offering to sell "original" John F. Kennedy autopsy photographs to the National Broadcasting Corporation (NBC) and to the American Broadcasting Corporation (ABC). Mr. Blakey indicated that representatives of NBC and ABC had contacted him in late August to advise him of the "consortium's" offer. The television network representatives further informed Blakey that the "consortium" was seeking \$100,000 for those photographs and that it was claiming that three of the pictures displayed evidence of tampering. ABC reportedly indicated that the vendor of the photographs was **[REDACTED]** **7C**

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The Federal Bureau of Investigation was requested to initiate an inquiry into the allegations of Mr. Blakey. The Bureau was also instructed to investigate Committee handling of the autopsy photographs to determine: 1) whether any original autopsy photographs are missing; 2) whether authorized copies of the original autopsy photographs are missing; 3) whether unauthorized copies of the original photographs could have been made without the knowledge of the Committee; and 4) whether all of the private consultants who had access to autopsy photographs were contractually barred from creating "unauthorized" copies. The FBI was instructed not to interview **[REDACTED]** **7C**

The FBI investigation revealed that: 1) all original autopsy photographs remain in the possession of the National Archives; 2) all authorized copies of autopsy photos were returned to the Committee; 3) numerous opportunities existed

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for Committee staff members and other persons, including private consultants, to make unauthorized ("third-generation") copies of the Committee's authorized "second-generation" autopsy photograph copies; and 4) it is unlikely, though possible, that anyone making unauthorized copies of the Committee's authorized autopsy photograph copies did so under a false belief that such conduct was permissible.

Sufficient evidence of numerous opportunities to make unauthorized "third-generation" copies was discovered by the FBI. We are consequently convinced that the source of the pictures now offered for sale cannot be identified through the investigation of all persons who had possession of authorized copies. The only viable alternative to the termination of the investigation into this matter appears to be the questioning of [redacted] the alleged offers to NBC and ABC of "original" autopsy photographs exhibiting evidence of tampering. [redacted] target for theft of Government property and fraud violations though it is extremely unlikely that an acceptable case can be developed pursuant to either statute. The primary goal in such a proposed interview should be to determine whether any evidence actually exists to indicate that tampering with J.F.K. assassination photographic evidence, original photographs or official copies, has occurred. A secondary goal should be to discourage the unlawful sale of unauthorized photographs and to recover any photographs which are actually Government property.

As you are aware, an element of a theft of Government property charge in this matter will be that the defendants stole or embezzled the photographs or that they converted or possessed them with knowledge of their stolen or embezzled status. Though it is unlikely that the person who created the unauthorized photographs did so under a claim of right, it is also unlikely [redacted] were involved in that stage of the offense. It will thus be difficult to show their knowledge of the fact that the photographs were stolen or embezzled, absent an admission to the contrary. Additionally, the Department's policy (as set forth at 9-2.024 of the United States Attorneys' Manual) for Title 18, United States Code, Section 641 prosecutions in matters involving the theft of intangible property for the purpose of public dissemination would appear to prohibit such a prosecution. If a Government employee "stole" the information, it may be claimed that his intent was to expose the tampering -- as a

"whistleblower." [redacted] to fall firmly within this declination policy as a [redacted] who has apparently obtained access by "non-trespassory means" to a Government document which he intends to publicly expose. 7C

A section 641 prosecution would also rely upon a very gray area of the law. The results of the FBI investigation suggest that any photographs [redacted] are likely "third-generation" copies made with non-governmental supplies. Thus, only the information — not the tangible property — belonged to the Government. There is precedent for a theft prosecution where stolen intangible information is transported in the form of privately-produced tangible copies, but it is only an emerging area of the law. This matter is unlikely to yield a sufficiently glamorous case to attempt to experiment with expansion of the scope of section 641. In our view, a fraud prosecution [redacted] unlikely to result from this investigation. 7C

A gap in our investigation of the J.F.K. assassination will exist until we can examine this alleged evidence of tampering with photographic exhibits used by the Committee. Additionally, it would appear appropriate for the Department to attempt to prevent the dissemination of these photographs, in respect for the contractual agreements between the Kennedy family and the Government. Accordingly, it is requested that the FBI interview [redacted] Copies of investigative reports should be referred to the Criminal Division. [redacted] should not be interviewed without authorization from the Attorney General pursuant to Department of Justice policy, as enumerated at 1-5.420 of the United States Attorneys' Manual (Ch.5, p.28) and at Title 28, C.F.R. § 50.10(f)-(k).



UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

June 3, 1980

MEMORANDUM FOR: Benjamin R. Civiletti
Attorney General

FROM: *RLK* Robert L. Keuch
Special Counsel to the
Attorney General

SUBJECT: JFK Autopsy Photographs -- Possible
Theft

By memorandum dated January 14, 1980 I requested authorization to question [REDACTED] in connection with the possible theft of photographs relating to the J.F.K. autopsy. At that time, you indicated [REDACTED] should be questioned and that if approval for questioning [REDACTED] were required, you would require a more complete explanation. 7c

I would like to renew my request for authority to have [REDACTED] interviewed based on the information set forth in my original memorandum of January 14, 1980, which is attached, and on the additional information provided in the undated memorandum of Larry Lippe to me, which is also attached. 7c

Attachments

15 JUL 1980

William H. Webster, Director
Federal Bureau of Investigation

Typed 7/8/80

Robert L. Keuch
Special Counsel to the Attorney General

RLK:LL:JIF:gvr

John F. Kennedy Autopsy Photographs

Reference is made to my memorandum to you dated February 20, 1980, and to an FBI report dated March 18, 1980 from the Washington, D.C., Field Office and entitled UNSUB(S), Possible Theft of John F. Kennedy Autopsy Photographs, regarding the investigation of an alleged theft of John F. Kennedy autopsy photographs. You may recall that former Chief Counsel and Staff Director of the U.S. House of Representatives Committee on Assassinations, G. Robert Blakay, informed the Criminal Division that [redacted] acting through [redacted] was attempting to sell "original" autopsy photographs to the media. Blakay further indicated that representations were made during the attempted transactions that the photographs exhibited evidence of tampering.

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The Federal Bureau of Investigation was requested to initiate an inquiry into the allegations of Mr. Blakay. The Bureau was also instructed to investigate Committee handling of the autopsy photographs to determine: 1) whether any original autopsy photographs are missing; 2) whether authorized copies of the original autopsy photographs are missing; 3) whether unauthorized copies of the original photographs could have been made without the knowledge of the Committee; and 4) whether all of the private consultants who had access to autopsy photographs were contractually barred from creating "unauthorized" copies.

The FBI was instructed not to interview [redacted] in compliance with Department of Justice policy regarding the questioning of reporters which policy is enumerated at 1-5.420 of the United States Attorneys' Manual (Ch. 5, p.28) and at Title 28, C.F.R. § 50.10(f)-(k). The FBI investigation revealed that: 1) all original autopsy photographs remain in the possession of the National Archives; 2) all authorized copies of autopsy photos were returned to the Committee; 3) numerous opportunities existed for Committee staff members and other persons, including private consultants, to make unauthorized ("third-generation") copies of the Committee's authorized "second-generation" autopsy photograph copies;

LLC
11/21/80

cc: Records
General Litigation
Mr. Fogel (2)
Mr. Cabbage Mr. Keuch



and 4) it is unlikely, though possible, that anyone making unauthorized copies of the Committee's authorized autopsy photograph copies did so under a false belief that such conduct was permissible.

The FBI interview of [REDACTED] 7C
[REDACTED] The Attorney
General has denied authorization for an FBI interview of [REDACTED]

7C
Since sufficient evidence of numerous opportunities to make unauthorized "third-generation" copies was discovered by the FBI, we are convinced that the source of the pictures now offered for sale cannot be identified through the investigation of all persons who had possession of authorized copies. Accordingly, no viable alternative methods of investigation of this matter appear to exist.

Unless new evidence of a theft of government property violation develops, no further investigation is requested. In the event that the FBI discovers commercial publication of the JFK autopsy photos in the future, please notify the Criminal Division, to permit review of the decision not to interview [REDACTED]

Please feel free to instruct your staff to contact Mr. Roger Cabbage (724-6893) or Mr. Jeffrey Fogel (724-7526) of the Criminal Division if they have any questions regarding this matter.