

Mr. Carl Stern
NBC News
4001 Nebraska Ave., NW
Washington, D.C.

6/22/84

Dear Mr. Stern,

This does not require an answer unless I can be of help to you, one of my purposes in writing and providing the enclosures.

I was not able to determine your interest from the appeals court's decision, which I've read, and I find it difficult to believe that you did not know the name of the SAC in New York at the time. If as I seem to recall it was Wallace LaPrade then there may be relevance in the enclosures because, again trusting recollection, I believe he was SAC in St. Louis at the time of these exhibits.

Ho face Beckwith does not appear to be one of the names the court held ought not be disclosed but he was part of that operation, later was an unindicted coconspirator in the Pat Gray case and thus was eminently qualified to be the FOIA supervisor in my suit for King assassination records. (I ~~was~~ caught him swearing falsely and providing phony records and the judge banished him from that case.)

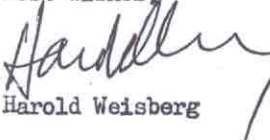
If your interest was in unauthorized surveillances perhaps the few pages from an affidavit I prepared for Jim Cesar's possible use before the appeals court, which I do not expect, may be of some use to you. As well as the FBI's articulated constitutional concepts.

There is no doubt that after Hoover withdrew his request his tapping continued because they disclosed, of all things, a "Bank robbery" record on me that could not have had any other source. That they did a black bag job on Carol Pepper also is without doubt because copies of her bank records wound up in the hands of a writer who did a book to the FBI's liking. This appears to be what is blacked out in the enclosed teletype, do it but don't get caught.

If you have any use for the FBI's having a diametrically opposite position, I have it under oath in the same King case in which, after initially withholding FBI names, they were disclosed. That case record also holds Director Kelley's letter stating that in historical cases such names would not be withheld.

The question also came up on Hoover's day, in connection with Warren Commission publication. Hoover forcefully overrode his bureaucrats and ordered that nothing at all be withheld from publication.

Best wishes,


Harold Weisberg

pp 5-8
Exs 1-4

been the subject of FBI investigation is likely to constitute an invasion of that person's privacy.'" Items 7, 8 and 14 do not "seek" any other "person's files" and disclosure of the requested information would not and, indeed, could not "reveal" that any one "has been the subject of FBI investigations." Moreover, with regard to some, the fact is that the FBI itself had already disclosed that some were "the subject" of its investigations. The truth is that these three Items request only copies of "correspondence" - not "files" and not results of any "investigations."

9. In addition, before I filed these Items the defendant had disclosed the existence of such correspondence to the press.

10. With regard to the surveillances Item, No. 11, it is not necessarily true that any person listed was "the subject of FBI investigations," although the FBI itself has disclosed that a least six were. It is an FBI fiction persisted in throughout this litigation that it has only electronic surveillances indices and that these indices are limited to persons as "the subject of FBI investigations." There are, and Item 11 specifies, other forms of surveillance, like mail and physical surveillance, both relevant in this litigation, and these other forms of surveillance are not included in the indices of subjects of electronic surveillance. (Those overheard and those mentioned are not "the subject of investigation" in any event.) My attestation to the existence of indices of those mentioned and those overheard is undisputed and, in fact, outside this litigation the FBI itself has disclosed this.

11. There also are, and specifically in this case there were, unauthorized electronic surveillances the existence of which was first indicated, albeit involuntarily, in the disclosure to me of what remained of the allegedly

nonexistent Long tickler. These existed years after the request for permission was not granted and was withdrawn by the FBI. Three of the FBI's records in the case record relating to the request and its withdrawal are attached as exhibits. Exhibit 1 is the Rosen to DeLoach memorandum of May 9, 1968, written by R.E.L., the initials of then supervisor (later assistant director) Richard E. Long of the Long tickler. It recommends that the FBI bug and wiretap Ray's relatives on the theory that it would help catch him and in the interest of "national security." The "technical surveillance" it refers to is the wiretapping, also referred to as TESUR. "JUNE" added to these records is the FBI code name for surveillances the records of which were kept outside the main files. While this recommendation was being considered by the FBIHQ hierarchy, the FBI's assistant director in charge of its Legal Counsel Division urged bugging Ray's sister and brother-in-law, Carol and Albert Pepper, on the theory that it could lead to his arrest. It admits that this bugging would be unconstitutional and would provide the Peppers with basis for suing. If there were to be such a suit, he concluded, "the government of the United States should surely be willing to pick up the tab for any judgment had against those who installed the microphones." (Exhibit 2) In this proposal no basis for believing that Ray would be in touch with those relatives is provided and in fact nonexisted. Ray had not seen his sister since she was a little girl and he had no idea of where she lived. (This also was true of his brother John, whose place of business the FBI also wanted to surveil electronically as it did at least physically.)

12. The FBI's position is that it does not require the Attorney General's approval for bugging and in this case it did not seek it. On May 18 it requested permission to wiretap only. Attorney General Ramsey Clark did not grant it. After Ray's arrest, under date of June 11, Director Hoover withdrew this request.

(Exhibit 3) This memo was classified Top Secret and initially was withheld from me on that basis.

13. The "recorded" or indexed original of Exhibit 3 is not a MURKIN record. It is identified in the margin as in 66-8160, where it is Serial 2987. The 66 file classification is officially "Administrative Matters." Actually, this particular "admat" file, 66 (the FBI has several admat), is the one in which it hides electronic surveillances records, including tapes. Thus, as the case record shows, when the Department asked the FBI to submit an inventory of all the holdings of the 59 field offices relating to MURKIN and their multitudinous actions against Dr. King and 400 pages of inventory were sent to FBIHQ, they do not inventory a single one of its countless tapes. The FBI merely omitted all citations of its 66 records. In this litigation, too, it has steadfastly refused to search its 66 files on the spurious basis that all relevant information is included in the MURKIN file, about which more appears below. (This 66 file classification is not the only one I identified as holding relevant information that the FBI refused to search. Others include 91 and 94, about which more appears below. (See paragraphs 57 and 60ff.)

14. Despite this request for permission to wiretap and its ostentatious withdrawal, there is persuasive reason to believe that the FBI was already engaged in these electronic surveillances and had pulled "black bag" jobs, which require breaking and entering, to seek and, if found, steal what it wanted. Exhibit 4 is the May 2, 1968, FBIHQ order to the St. Louis office to "provide full coverage" of John Ray's tavern. The case record also holds other "full coverage" directives pertaining to other Rays and relatives, in response to which various field offices provided information that included their phone numbers. The coverage could not be "full" without electronic surveillances, and when only

physical surveillance was directed and performed, it was referred to and reported as only physical surveillance. (Code name FISUR) In this case St. Louis was ordered to obtain financial information (all else is withheld under claim to exemption not posted on the record itself) that ordinarily would require a subpoena. St. Louis was told that if no subpoena was available it was to get the information without subpoena if that "can be accomplished with full security and the Bureau's interest will be fully protected." This is a standard FBIHQ formulation for "if you can do it without getting caught."

15. Of the persons listed in Item 11 the disclosed MURKIN records indicate that not fewer than 10 were under some form of surveillance pertaining to which the FBI has information it has not disclosed to me. I provided this information and the FBI has neither searched for what is withheld nor denied having it. One illustration, again a listed member of the Ray family, relates to the FBI's mail, physical and even bed surveillance of Jerry Ray. When the FBI learned from mail surveillance that he was going to go to Camden, New Jersey, to visit a woman, it made her an informer of the Newark field office. She then took Jerry to her bed. In its deep concern for privacy, the FBI disclosed her name, Marjorie Fetters. The MURKIN file holds only what the FBI wanted that file to include of what she reported. The underlying information remains withheld. I correctly identified her informer file number, 137-6826, but the FBI refuses to make any search. Notwithstanding the fact that it had already disclosed that she was an informer and that she took Jerry Ray to bed after she became an FBI informer, it makes a "privacy" claim and alleges that I have made no showing at all when all of this and much more is in the case record. (In this litigation the FBI disclosed the names of a number of its symbol informers, as I recall, a total of five. This does not include Patterson and Geppert, referred to below.

Memorandum

EXHIBIT 1

JUNE

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

TO : Mr. DeLoach *DR*

DATE: May 9, 1968

FROM : A. Rosen *AR*

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. Long
- 1 - Mr. Conrad

SUBJECT: MURKIN

DR

Mr. DeLoach

1 - Mr. Gale

PURPOSE: To recommend the installation of a technical surveillance (TESUR) on the telephones of Albert and Carol Pepper, St. Louis, Missouri, and the telephone listed to the Grapevine Tavern in St. Louis, Missouri, owned by Carol Pepper, subject's sister, and operated by John Larry Ray, subject's brother, and the installation of a microphone surveillance at the residences of Carol Pepper, and John Larry Ray, and at the Grapevine Tavern. These installations could assist in the early apprehension of the subject, which could possibly be instrumental in reducing the stresses and tension placed on our national security subsequent to the death of Martin Luther King, Jr.

Long

DR

BACKGROUND: We are presently conducting exhaustive and extensive investigation to determine the present whereabouts of the subject James Earl Ray, who is one of the TEN MOST WANTED FUGITIVES. Although many hundreds of interviews have been conducted and leads run out, we have not been able to locate the subject nor have we located any person who can furnish us any information as to the subject's present whereabouts. It has been determined that Carol Pepper, the sister of the subject, and John Larry Ray, the brother of the subject, are the closest relatives to him. Carol is married to Albert Pepper and they reside at 2025 Belleview, St. Louis, Missouri, telephone number 645-2948. John Larry Ray resides at 1900 A Cherokee, St. Louis, Missouri, no telephone listed. Carol presently owns the Grapevine Tavern, 1982 Arsenal, St. Louis, Missouri, telephone number PR 6-9417. This tavern is operated by John Larry Ray.

John Larry Ray has expressed a cooperative attitude; however, it is felt that he is not giving us complete and accurate information. Carol Pepper refuses to submit to interview and is not cooperative. It is felt that if the subject telephones or personally contacts any of the relatives, it will most likely be Carol Pepper or brother John Larry Ray.

Enclosure *sent 5-13-68*

REC 11

44-38861-3764

REL:ergery

CONTINUED - OVER

MAY 31 1968

EX-102

11 MAY 22 1968

~~6 MAY 31 1968~~

DR
SPECIAL MAIL RM

Memorandum to Mr. DeLoach
RE: MURKIN

RECOMMENDATION: That a technical surveillance be installed on the telephones of Albert and Carol Pepper and the Grapevine Tavern and a microphone surveillance be installed at the residences of Albert and Carol Pepper and John Larry Ray and at the Grapevine Tavern.

Attached for approval is a memorandum to the Attorney General requesting authority for this coverage.

egm *chd* *sk* *f*
R *JRM*

*It is doubtful that
A.G. will approve.
This could be of
great assistance.*
f

SK
f

EXHIBIT

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: May 10, 1968

FROM : J. J. Casper

ST
SUBJECT: MURKIN

JUNE

pa

- Tolson
- DeLoach
- Mohr
- Bishop
- Casper
- Callahan
- Conrad
- Felt
- Gale
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele. Room
- Holmes
- Gandy

As shown in attached memorandum of May 9, 1968, from Mr. Rosen to Mr. DeLoach, consideration is given to microphone installations on certain properties of Albert and Carol Pepper. The proposal raises a question concerning the legality of any action taken against the subject of this case on the basis of information obtained from the microphones.

We believe these microphones can be installed and used without prejudicing the case against the subject. In a very recent decision of the United States District Court for the Southern District of New York, a listening device was installed on the premises of one Levine. Later, a subject named Granello, an associate of Levine, came up for trial and claimed that the listening device installed on Levin's premises, which was installed by trespass, was illegal as to him, Granello. It was not contended that any information obtained from the Levine microphone was used as evidence against Granello at trial either directly or as a lead. The court held that since Granello had no interest in the Levine premises, the monitor was not illegal as to him and he could not obtain a new trial or dismissal of the indictment. U.S. v. Granello, 280 F. Supp. 482 (1968).

Applied to instant case, this rule of law could work out in different ways. Assuming that the subject of this case is not on the premises to be surveilled by the means suggested, and has no possessory or other right in those premises, any information disclosed by the surveillance in some way, such as conversation among the Peppers, could be used to learn the whereabouts of the subject for purposes of arrest. The problem becomes somewhat more complicated, however, if the subject of this case made a telephone call to those premises and that telephone call were recorded and used as the basis for his apprehension. He then could claim that the surveillance violated his right of privacy in the telephone communication he made to that place, citing the Katz decision in the Supreme Court.

- Enclosure ~~2-2-68~~
- 1 - Mr. Tolson
 - 1 - Mr. DeLoach
 - 1 - Mr. Conrad
 - 1 - Mr. Gale
 - 1 - Mr. Rosen
 - 1 - Mr. Malley
 - 1 - Mr. McGowan
 - 1 - Mr. Long

DJD/pal
MAY 31 1968

REC 11 44-38861-3763

MAY 22 1968

102

"CONTINUED - OVER"

Memorandum J. J. Casper to Mr. Mohr
RE: MARKEN

The worst that could happen in either of the above circumstances, however, - assuming that we follow the precautionary measures listed below - is that we illegally learn where the subject is located and thus are able to arrest him on that knowledge. The rule that comes into play here, established in the last century by the Supreme Court in Ker v. Illinois, 30 U.S. 347 (1886), is that an illegal arrest is no bar to prosecution. Wong Sun v. U.S., 371 U.S. 471 (1963); U.S. v. Hoffman, 385 F2d 501 (1967); Keegan v. U.S., 385 F2d 260 (1967). A person may be arrested unlawfully and actually kidnapped into the court having jurisdiction of the criminal case, yet the court still retains jurisdiction to try the person for the offense. The court would not allow the prosecution to use as evidence any information obtained through the illegal surveillance but the illegal surveillance would not taint the use of any other evidence obtained either before or after and which was gotten in a legal manner. Nor, to repeat, would the illegality of the arrest alone, resulting from whereabouts disclosed by unlawful surveillance, prevent the court from trying the subject for the offense.

If the action being considered is taken, we strongly suggest three precautionary measures, as follows:

- (1) That all recordings be preserved intact. It may be necessary to disclose some of them to the court or even to the defense.
- (2) That no use be made of any information obtained against anyone whatsoever or in any way whatsoever except for the single purpose of locating the subject in this case. As we well know by this time, evidence of the offense obtained in this manner is not admissible. It would not be admissible against the subject and it would not be admissible against the Peppers on a charge of harboring.
- (3) Be aware that since this search and seizure is unconstitutional as to the Peppers, they have at least a theoretical cause of action for damages against those who installed the devices by trespass. Here again, however, if nothing learned by this surveillance is used against the Peppers in any way, their cause of action is diminished to the lowest possible degree, becoming that for a technical violation only rather than one of substantial harm to them. Moreover, in any such case the government of the United States should surely be willing to pick up the tab for any judgment had against those who installed the microphones.

RECOMMENDATION:

For information.

[Handwritten initials and signatures]
R
-2-
PLEASE SEE ATTACHED

ROUTE IN ENVELOPE

1 - Mr. C.D. DeLoach
1 - Miss Holmes

The Attorney General

~~CONFIDENTIAL~~

June 11, 1968

Director, FBI

JUNE

- 1 - Mr. Rosen
- 1 - Mr. W.C. Sullivan
- 1 - Mr. C.D. Brennan
- 1 - Mr. M.J. Rozamus

ELECTRONIC SURVEILLANCES

MURKIN

Reference is made to my memorandum dated June 4, 1968, captioned as above, pointing out that your decisions were urgently needed concerning requests for electronic surveillances on the individuals and organizations listed in my memorandum of May 20, 1968. Subsequent to the memorandum of May 20, 1968, a request for electronic surveillance was submitted to you on May 31, 1968, concerning the National Headquarters of the Students for a Democratic Society, Chicago, Illinois.

As you were previously advised, this Bureau is greatly concerned about the delays involved regarding the requests for electronic surveillances which have been submitted to you. While we are making every feasible effort to obtain essential intelligence data in the internal security field, we cannot hope to fulfill our responsibilities in the intelligence field unless the requested investigative techniques are made available. It is absolutely essential that in critical cases full coverage be given in areas of foreign intelligence, counterespionage, domestic subversion, and insurrection. The requests which are pending are in critical cases and in view of the developments during the past several weeks, particularly concerning activities of subversive organizations, civil rights groups, and organizations affiliated with the New Left, this Bureau must have consideration of the coverage requested of you.

I again find it necessary to bring to your attention that your delays involving requests for electronic surveillances are causing a loss of invaluable intelligence information. It is again requested that you furnish your decision as soon as possible concerning the requests which have been made.

18885-0718-97

~~CONFIDENTIAL~~ 57-OCT-11 1968

- Tolson _____
- DeLoach _____
- Mohr _____
- Bishop _____
- Casper _____
- Callahan _____
- Conrad _____
- Felt _____
- Gale _____
- Rosen _____
- Sullivan _____
- Tavel _____
- Trotter _____
- Tele. Room _____
- Holmes _____
- Gandy _____

66-8160

MJR: pag/sib sil
(9)

~~CONFIDENTIAL~~
Excluded from automatic
downgrading and
declassification

JUN 14 1968
SEE NOTE PAGE TWO

DECLASSIFIED BY 6855
ON 9/8/77

OCT 11 1968

SENT FROM D. O.
TIME 5:00 PM
DATE 6-11-68
BY

MAIL ROOM TELETYPE UNIT

10/20

The Attorney General

~~CONFIDENTIAL~~

For your information, inasmuch as James Earl Ray has been apprehended, the request for electronic surveillances mentioned in my memorandum dated May 13, 1968, captioned "Assassination of Martin Luther King, Jr.," is hereby withdrawn. (UNCLASSIFIED)

NOTE:

See memorandum C.D. Brennan to Mr. W.C. Sullivan, same caption, dated 6/10/68, prepared by MJR:sss.

This memorandum is classified "Top Secret" since unauthorized disclosure could result in exceptionally grave damage to U.S. intelligence interests.

~~Revised by 3002~~
~~02/21/77~~
~~[Signature]~~

7306 TJS/eh 2/21/77

2-3

INDEF

~~TOP SECRET~~

May 2, 1968

PLAINTEXT

TELETYPE

URGENT

1 - Mr. Long

COMMUNICATIONS SECTION
MAY 2 1968

TELETYPE

TO: SAC, ST. LOUIS

FROM: DIRECTOR, FBI

MURKIN

ST. LOUIS WILL PROVIDE FULL COVERAGE AT THE GRAPEVINE TAVERN TO DETERMINE IF THE OWNER OR OPERATOR OF THE TAVERN IS POSSIBLY ENGAGED IN ANY ILLEGAL ACTIVITIES WHATSOEVER. ALONG THESE LINES, YOU SHOULD IMMEDIATELY ASCERTAIN IF THE TAVERN IS POSSIBLY LICENSED AND IS CONFORMING WITH PRESENT LAWS AND REGULATIONS GOVERNING THEM. THIS IS FOR THE PURPOSE OF DEVELOPING INFORMATION WHICH CAN BE UTILIZED IN CONNECTION WITH INTERVIEWS TO DETERMINE WHEREABOUTS OF SUBJECT. KANSAS CITY HAS ADVISED THAT SUBJECT RAY UTILIZED THE ALBERT PEPPER STATIONERY COMPANY, SEVEN ONE TWO A SHENANDOAH STREET, ST. LOUIS, MISSOURI, AS A MEANS OF GETTING MONEY OUT OF PRISON, ALLEGEDLY PURCHASING STATIONERY.

REC 5 4/4-886:2

EX 100

MAY 3 1968

[REDACTED SECTION]

MEMPHIS

RELEPHY (4)

SEE NOTE PAGE TWO

66 MAY 3 1968

TELETYPE TO SAC, ST. LOUIS

RE: MURKIN

[REDACTED]
[REDACTED] IF GRAND JURY IS NOT
IN SESSION TO SUBPOENA RECORDS, YOU SHOULD INSURE THAT REVIEW
OF RECORDS CAN BE ACCOMPLISHED WITH FULL SECURITY AND THE
BUREAU'S INTEREST WILL BE FULLY PROTECTED.

ARMED AND DANGEROUS.

AIRMAIL COPY TO MEMPHIS.

NOTE: Kansas City has advised that Ray has utilized the
Albert Pepper Stationery Company of St. Louis, Missouri,
as a means of getting money out of the prison. [REDACTED]

St. Louis also being instructed to fully cover the Tavern
as owned and operated by subject's relatives and to ascertain
if illegal activities involved and to establish the Tavern
operating in compliance with regulations.