

H. Weisberg - made suggestions to DJL 1/18

ROBERT M. GRAY (1908-1967)

THOMAS SEARING JACKSON *
JOHN L. LASKEY *
ARTHUR C. ELGIN *
H. DONALD KISTLER
KENNETH WELLS PARKINSON
THOMAS PENFIELD JACKSON *
ARTHUR C. ELGIN, JR. *
JAMES P. SCHALLER
KARL H. MICHELET
HERMAN G. LAUTEN
DIANE M. SULLIVAN
JAMES E. BRAMMER
PATRICIA D. GURNE
JOHN S. MILES
NICHOLAS S. McCONNELL

* ADMITTED IN MARYLAND

LAW OFFICES

JACKSON, LASKEY & PARKINSON

1828 L STREET, N. W.
WASHINGTON, D. C. 20036

TELEPHONE 466-6850
AREA CODE 202

414 HUNGERFORD DRIVE
ROCKVILLE, MARYLAND 20850
301-340-0450

January 16, 1974

The Hon. Charles R. Richey,
United States District Court
for the District of Columbia,
United States Court House,
Washington, D.C. 20001.

Re: Senate Select Committee Computer

Dear Sir:

This will acknowledge the receipt of a copy of a letter to Your Honor dated December 27, 1973 from Maurice R. Dunie, counsel for the Democratic National Committee and Robert S. Strauss.

On December 21, 1973 Mark Biros, Esquire, Assistant Counsel to the Senate Select Committee on Presidential Campaign Activities, appeared at a scheduling conference before Your Honor. Mr. Biros stated that he had been requested to attend the conference to inform all counsel with respect to a decision of the Senate Select Committee to turn over public information from the computer of the Committee to counsel for all parties in the consolidated cases if Your Honor formally requested the Committee to do so. He said that the dissemination of the information after that point is entirely up to the Court.

Mr. Biros stated the following information had been fed into the Committee's computer:

- (1) The Senate Select Committee transcript of public hearings held by the Committee;
- (2) The public transcript of the Watergate criminal trial;
- (3) The Gray confirmation hearings;

(4) Newspaper clippings from The Washington Post and New York Times dealing with the Watergate between June 17, 1972 and approximately October 15, 1973;

(5) Approximately twenty-five (25) selected depositions taken in the DNC civil suit.

He said that the testimony of individuals and documents from the above sources are digested, coded and then fed into the computer. He said that this information is stored on tapes in the machine and may be retrieved in a variety of different printouts. Biros said the Committee computer is capable of printing out:

(1) All information that a particular individual gave.

(2) Information about individuals or organizations mentioned by any other individual or that same individual.

(3) Dates of evidence testified to, such as the actual break-in on June 17, 1972, subsequent Grand Jury appearances and press conferences of individuals all arranged in chronological order, including, for instance, the crime, arrest and trial concerning the June 17, 1972 break-in and when cash disbursements were made.

Mr. Biros stated that the printout or printouts offered to Your Honor would not contain any nonpublic information which we understand might include such things as transcripts of Executive Sessions, transcripts of interviews with the Senate Select Committee staff, information secured from the F.B.I. or other Federal agencies, and the like. Furthermore, Mr. Biros pointed out that while the computer was capable of printing out the comments of the staff with respect to certain items of testimony, such as whether and where the testimony of an individual was contradicted by other testimony^{1/}, these comments would not be contained in the printout.

^{1/} Although Mr. Biros was not totally clear in response to certain questions, it appears that the comments relate to conflicts but not corroboration of the testimony of a witness. If so, this would tend to show that the computer information is geared to a prosecution and would be of little use to, and could prejudice, the defendants in this proceeding.

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For the following reasons, we urge the Court to terminate this inquiry:

(1) The computer material has been prepared at taxpayer expense and should not be made available unless a proportion of the total cost of the entire computer operation (salaries, material expenses, programming costs, rent and the like) is paid by each party receiving information. Charging for computer time only, as was suggested by Mr. Biros, is not adequate from the standpoint of the taxpayer and would put the Court in the position of authorizing this "subsidy" in private, partisan litigation.

(2) The printout material will prejudice the defendants in that the assemblage of the information in the computer has been done by persons who (consciously or unconsciously) are desirous of assuring that such information reflects adversely on the President, his associates and the 1972 campaign committees. It is obvious that little or no effort is being made by the Senate Select Committee staff to prepare a defense for the President, his associates or the campaign committees.

(3) There has been no showing that the Senate Select Committee authorized the use of the computer printout information in this litigation. It is our understanding that the Committee has not voted on this matter.

(4) Our discussions with Senate Select Committee staff indicate that the computer printout material is not useful because of limitations which include the fact that it is unreliable, incomplete and does not provide an index to all evidence available to the Committee.

(5) The qualifications of the lawyers, investigators and computer experts responsible for the computer printouts are questionable. The reliability of the printout is not known to us and we should be given the right to have experts retained by us independently evaluate the computer operation.

(6) The cost of between \$3,000 and \$4,000 a printout is considerable and defendants will be required to order copies should the Court grant the subject request. Further, at this point, no counsel knows the quality of the digest reportedly in the computer, nor the coding method for the public information. Furthermore, notwithstanding the assurances of Mr. Biros, we continue to be troubled by the possibility that any printout might inadvertently contain references to nonpublic material to which these parties are not entitled to have access. Computers do have a tendency to err. Furthermore, even if the Court were disposed to make such a request, the form of the printout is unresolved.

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Under the circumstances, we do not favor a formal request from
this Court to the Senate Select Committee for a printout.

Sincerely yours,

JACKSON, LASKEY & PARKINSON



Kenneth Wells Parkinson

KWP:daa

CC: All Counsel