

Garrison Subpoenas Helms to Testify on the C.I.A. Investigation of Oswald

By MARTIN WALDRON
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NEW ORLEANS, May 10 — District Attorney Jim Garrison today subpoenaed Richard Helms, head of the Intelligence Agency, to answer questions before a New Orleans grand jury next week about a C.I.A. investigation of the assassination of President Kennedy.

The subpoena, signed by State District Judge Bernard J. Bagert, ordered Mr. Helms to appear next Wednesday. It also directed him to produce a photograph taken by C.I.A. agents in front of the Cuban Embassy in Mexico City in October, 1963, about seven weeks before the President was shot.

Mr. Garrison, who has said he has evidence that Lee Harvey Oswald was an undercover agent of the C.I.A., declared that a photograph alleged to show Oswald in front of the Cuban Embassy was a "fake" produced by the C.I.A. to avoid having to identify one of its agents, who was with Oswald in Mexico City and who appeared in the true photograph.

On Monday, Mr. Garrison said that he had begun an investigation of the activities of the C.I.A. and of the Federal Bureau of Investigation. He accused both agencies of withholding vital evidence concerning the assassination of President Kennedy.

Refuses to Testify

This morning, an F.B.I. agent, Regis Kennedy, refused to appear before the grand jury in answer to a subpoena issued last week. Mr. Kennedy was one of the F.B.I. agents who helped to investigate the New Orleans scene after the President's death in Dallas.

In pleadings filed in state



Associated Press Wirephoto
Alvin Beauboeuf

court today, Louis C. Lacour, the United States attorney in New Orleans, said that Attorney General Ramsey Clark had directed Mr. Kennedy not to answer the subpoena.

Mr. Lacour asked Judge Bagert to dismiss the subpoena and a hearing on the motion was set for next Tuesday.

In support of the motion, Mr. Lacour filed a statement saying:

"Traditionally, F.B.I. agents do not testify before state grand juries with respect to information or material gained by them in the performance of their official duties or by reason of their official status.

"Department of Justice order 324-64 prohibits any officer or employe of the department from producing or disclosing inform-

ation on material contained in the files of the Department of Justice or acquired by him in the performance of his official duties or because of his official status.

"Special Agent Kennedy has been instructed by the Attorney General, pursuant to order 324-64, that he is not to testify with respect to information and material acquired by him in the performance of his official duties or because of his official status.

"Customarily, when local authorities seek information from a Federal investigation agency they inquire of the proper Federal officials. No inquiry has been made here. Therefore, it is requested that the subpoena be quashed."

A former F.B.I. agent, Warren DeBrueys, was also subpoenaed last week. He did not appear to testify. The District Attorney's office said that the subpoena had not been served.

At a news conference this afternoon, meanwhile, the attorney for Alvin Beauboeuf, a one-time business partner of the late David W. Ferrie, whom Mr. Garrison has called the "central figure" in a plot to kill President Kennedy, said that a lie detector test showed that Mr. Beauboeuf was telling the truth when he reported he had been "threatened" by members of the District Attorney's staff.

More Threats Charged

An article in Newsweek this week said that an investigator for Garrison had offered Mr. Beauboeuf \$3,000 to testify that he had overheard discussion of an assassination plot.

Mr. Beauboeuf later signed an affidavit saying that the investigator had at no time asked him to tell anything but the truth.

But today his attorney, Burton G. Klein, said that Mr. Beauboeuf had signed the affidavit "because of threats and coercion."

Mr. Beauboeuf, a slender man of 21 who was dressed in a brown and a blue tie, sat beside his attorney during the news conference but did not take part in it.

Mr. Klein would not say who had administered the polygraph test. However, Mr. Beauboeuf said on Monday that he was going to take a lie detector test yesterday in Washington.

A Long-Standing Policy

Special to The New York Times

WASHINGTON, May 10—The Department of Justice followed a long-standing Federal policy today when it refused to permit an agent of the Federal

Bureau of Investigation to testify before a state grand jury in Louisiana.

Justice Department regulations prohibit F.B.I. agents from testifying about matters that they have investigated before state grand juries, unless the Attorney General gives his consent.

Veteran officials of the Justice Department and the F.B.I. said today that they could not remember an instance in which the Attorney General had given his consent for an agent to testify.

The reason for this policy is said to be that once an agent is sworn in before the grand jury, he could be required to disclose Federal secrets.

The Supreme Court has upheld the authority of Federal department heads to exercise this power in a series of cases running back to 1900. The latest decision, in 1950, involved an attempt by Roger Touhy, the Chicago gangster, to prove in habeas corpus proceedings that the F.B.I. had used fraud to send him to the penitentiary.

An F.B.I. agent refused to produce subpoenaed records in Federal district court and the trial judge put him in jail. The Supreme Court ruled that the agent had the right to refuse, unless the Attorney General gave his permission.

When the Justice Department refused today to let Mr. Kennedy testify, it cited the current version of the regulation that the Supreme Court upheld in the Touhy case.

The regulation, which was issued by acting Attorney General Nicholas deB. Katzenbach in 1964, states that if the state court persists in calling upon the agent to testify, he must "respectfully decline to produce or disclose the material or information demanded."

Legal observers here said today that if Louisiana officials imprison Mr. Kennedy for refusing to testify, a Federal judge would probably order his immediate release, under the authority of the Touhy case.

A spokesman for the Central Intelligence Agency said today that any subpoenas served on C.I.A. officials in connection with the Garrison investigation "will be accepted."

The spokesman would not elaborate. However, Federal officials outside the Justice Department normally turn their subpoena papers over to the department, which then provides instructions on what course the officials should take.