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Deny Quentin Conspiracy

By George Draper

Spokesmen for three law enforcement agencies vehemently denied yesterday that their agencies joined in a conspiracy to set up the abortive escape attempt of Soledad Brother George Jackson from San Quentin Prison.

Jackson, two other prisoners and three guards were killed in the brief and bloody outbreak of violence in the prison's adjustment center on Aug. 21, 1971.

The conspiracy charge was directed at the law enforcement agencies in an affidavit filed in the Marin Superior Court by Chief Deputy Public Defender Frank J. Cox.

The affidavit further charged that law enforcement agencies knew in advance the exact date that the Marin Civic Center shootout would occur.

Superior Court Judge Gerold Haley and three others were killed in that bloody incident on Aug. 7, 1970.

"Baloney!" exclaimed Los Angeles Police Chief Ed Davis.

The Cox affidavit repeatedly alluded to the Criminal Conspiracy Section of the Los Angeles Police Department for having knowledge of and encouraging the escape attempt.

"It's absurd," said a spokesman for Attorney General Evelle J. Younger.

He added that the Department of Justice had no prior knowledge of the escape plot or of subsequent incidents.

Cox affidavit charged that agents of the department's criminal identification and investigation section monitored coded escape messages sent to Jackson at San

Quentin by James Edward Carr.

The Cox affidavit also charged that agents of "CII and/or CCS and/or FBI converted the revolutionary Carr, a friend of Jackson's, into a double agent.

These agents, according to the affidavit, threatened to tell revolutionary groups that Carr had embezzled money from the Angela Davis and Soledad Brothers defense funds.

"Carr," the affidavit states, "was persuaded to feign participation in the plot to free George Jackson, under threat of probable death by covert leaking of information to revolutionary cadres."

As it turned out, Carr was

Back Page Col. 5

From Page 1

assassinated in San Jose on April 6, 1972 during the Angela Davis murder trial.

The two men convicted of his murder — Lamar L. Mimms and Richard Rodriguez — may have been operatives of the CCS of the Los Angeles police department, according to the Cox affidavit.

Another agency mentioned in the affidavit as taking part in the conspiracy to set up the Jackson escape try was the State Department of Corrections.

Cox, the public defender, swore that he has "specific information" linking a named correctional officer at San Quentin on Aug. 21, 1971, with the smuggling of a gun into the adjustment center.

And, at another point in his sworn statement, Cox said: "Evidence of this gun and similar materials has

been suppressed by a small group of correctional or law officers."

A spokesman for the Department of Corrections flatly denied Cox's charge.

"If there's any information about a second smuggled gun, we don't know about it," he said.

One gun, a 9mm. Astra, is believed to have been smuggled to Jackson in a tape recorder by now missing Attorney Stephen Bingham.

The Department of Corrections spokesman said the only other gun he knew about was a toy gun found strapped to the leg of a child accompanying Jackson's sister, Penny, to the prison two or three weeks before the escape attempt.

"That might have been an attempt to test our defenses," the Corrections Department spokesman said.

The Cox affidavit, however, is very specific about a third and heretofore unreported weapon.

"Affiant has received specific information from a confidential source that operatives from the CCS (Los Angeles police department) and perhaps other cooperating covert agencies did know before and on Aug. 21, 1971 that a gun was to be smuggled into George Jackson."

Cox, the public defender, went on to describe this gun as "inoperable" and "for the purpose of enticing George Jackson into attempting an impossible escape attempt."

In his capacity as chief deputy public defender of Marin county, Cox has the responsibility of defending David Johnson, one of six San Quentin convicts now on trial for the murders resulting from the escape attempt.

His controversial affidavit echoes many charges aired by left wing revolutionaries over the years, particularly that George Jackson and his younger brother, Jonathan, were set up for death by law enforcement agencies.

This is believed the first time, however, that the charges have been filed in a court by a public official.

It is Cox's contention that he must have access to documents in possession of the various law enforcement agencies to prove that there was a conspiracy to encourage Jackson's escape attempt.

In his plea to the court

for access to these documents, Cox claimed that his client, David Johnson, had no part in the alleged escape conspiracy.

Cox's affidavit was filed as Exhibit 4 in support of a motion for discovery argued before Marin Superior Court Judge Henry Broderick on March 14.

The press was excluded from the proceedings and the affidavit only came to light after Judge Broderick denied the discovery motion and Cox appealed to the Court of Appeal.

The motion was again denied and the matter is now pending before the State Supreme Court.

In his arguments before Judge Broderick, Cox said he could not recall filing "a more critical motion" during his career as a lawyer.

He told the judge that since filing the affidavit he has received "more specific information naming names and dates" concerning the alleged conspiracy.

The judge said he was concerned with the immediate events in the adjustment center at the prison on Aug. 21, 1971 rather than things that went on "years before."

Cox replied that the prosecutor in the first Watergate burglary trial insisted it was just a "simple burglary" by half a dozen men and "we need not determine or allow any evidence into what occurred before they entered the Watergate offices."

In his affidavit, Cox contended that he had information from "reliable sources" that directly supports the conclusion that law enforcement and correctional personnel engaged in undercover or illegal acts bearing on the escape attempt.

These acts, Cox claimed,

make the law enforcement personnel involved "precipitant witnesses and co-conspirators to the planning of acts of violence that led to the August 21, 1971 incident."

The lengthy affidavit then proceeded to outline the history of the conspiracy, beginning with the Soledad Brothers case in 1970.

Soledad Prison inmates George Jackson, Fleeta Drumgo and John Clutchette were charged with the January 16, 1970 murder of Guard John V. Mills.

The case was moved to San Francisco for trial and the three Soledad prisoners were transferred to San Quentin.

Cox said he has received statements from a paid informant of the CCS to the effect that undercover agents at that time had "thoroughly infiltrated" various suspect radical groups including the Black Panthers.

One of these undercover agents was identified in the affidavit as Melvin (Cotton) Smith, who also held a ranking position in the Los Angeles branch of the Black Panthers.

"Through informant Smith," Cox asserted, "CCS learned of a plot to free George Jackson."

Smith, according to the affidavit, leaked information to the CCS before Aug. 7, 1970, that an armed attempt would be made to seize portions of the Marin Civic Center.

The object of the plan, according to the affidavit, was to "coerce the release (from San Quentin) of George Jackson."

The Cox affidavit claims that two Los Angeles police officers attached to CCS — Don Mahoney and Robert Sherritt—arrived in Santa Cruz the day before

the Civic Center shootout and predicted it would take place the next day.

The following day, August 7, Jonathan Jackson entered Judge Haley's courtroom with guns and Judge Haley and three others were subsequently killed.

"Officers Mahoney and Sherritt," according to the Cox affidavit, "were both present at the Marin Civic Center, and participants in the incident."

The affidavit did not explain how they participated and the Los Angeles Police Department was quoted as saying it has no record that they were there.

One of the persons the CCS learned would take part in the Marin Civic Center incident, the affidavit claims, was James Carr.

Carr was not arrested then, but the following January police found a letter in a Santa Cruz laundry that was reportedly written in part by George Jackson and "one other person."

The letter discusses details of a planned escape attempt from San Quentin and the weapons and explosives that would be needed.

Although Carr was on parole at the time, he was not arrested after the letter was discovered in the pocket of some pants he sent to the laundry.

The affidavit then relates how Carr was converted into an agent provocateur by police threats and how he sent coded messages to Jackson, which authorities knew about.