

On Fred Hampton and
Mark Clark:

29 Dec 69

18 Dec 71 et seq.

23 Jan 76 et seq.

PREP

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U.S. Aide Asked Panel Not to Study Panther Deaths

By JOHN KIFNER

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CHICAGO, May 22—Assistant Attorney General Jerris Leonard met with members of the newly formed "Goldberg Commission" early this year to dissuade them from conducting an independent investigation of the deaths of two Black Panthers in a police raid here last Dec. 4.

The gist of the discussion between the Federal official and the citizens' group headed by former Supreme Court Justice Arthur J. Goldberg was disclosed over the last few days by participants and other sources.

As a result of the meeting, along with staff and funding difficulties, the group has remained virtually inactive since it was organized last December to look into a nationwide series of clashes between the Panthers and the police.

But now members unhappy with the outcome of the grand jury investigation here are making efforts to revive the commission and undertake an investigation of their own.

During the meeting, the participants said, Mr. Leonard sought to convince them of the seriousness of his own investigation.

Cites Items of Evidence

They said he cited several items of evidence already uncovered in the deaths of the two Panthers—Fred Hampton, the Illinois chairman, and Mark Clerk—and left the impression that policemen might be indicted.

He also suggested the participants said, that a competing inquiry by the citizen's group might be harmful to the efforts of the grand jury, which was trying to determine whether the dead men's civil rights had been violated.

The grand jury report, issued last Friday, found that despite official accounts of a torrid gun battle, the police had fired between 82 and 99 rounds into the cramped five-room apartment while only one shot could be attributed to the Panthers.

However, the grand jury did not indict any of the 14 policemen who took part in the raid.

It appeared that the only person who might face court action as a result of the investigation was Bobby Rush, Mr. Hampton's successor as leader of the Illinois Panthers.

Another Inquiry Urged

The report recommended that another grand jury investigate whether he had violated "Federal laws prohibiting obstruction of justice" by "formulating and announcing" the Panthers' refusal to testify.

The meeting with Mr. Leonard took place in the Manhattan law office of Mr. Goldberg, who is now a Democratic candidate for Governor of New York, shortly after the grand jury was empaneled in here last January.

According to Norman C. Amaker, the group's former staff director, the meeting was arranged at the request of Attorney General John N. Mitchell, who had telephoned Mr. Goldberg.

Mr. Amaker and other participants said that Mr. Leonard had described several pieces of evidence — grand jury proceedings are legally considered secret — and that he had indicated that "there was a possibility of indictment."

"He did ask, in essence, if we would not get our feet tangled up in the grand jury investigation," Mr. Amaker said.

'Enough to Work On'

Sam Brown, the antiwar organizer and another participant in the meeting, said that the group "did leave with the clear impression that they the grand jury had enough to work on that they were going to be able to come up with adjudicable indictments."

Mr. Brown said that Mr. Leonard had "made it rather clear, in legal terms, that it might prejudice the evidence" if a separate investigation were undertaken.

The 249-page grand jury report relates a startling tale of false statements, blunders and attempts to cover up by policemen and other officials.

Soon after the 4:40 A.M. raid in which the two Panthers were killed, the police assigned to the State's Attorney's office held a news conference to describe what they said had been a ferocious gun battle touched off by an attempt to serve a search warrant for a suspected weapons cache.

"There must have been six or seven of them firing," said Sgt. Daniel Groth, the raid leader. "If 200 shots were fired it was nothing."

Citizen Support Asked

State's Attorney Edward V. Hanrahan issued a statement saying that his men had displayed commendable "restraint" in the face of a "vicious" Black Panther "attack" and urging all good citizens to support them.

As controversy mounted, and the Panthers conducted tours of the apartment pointing out that the bullet holes were in the places where the Panthers, not the police, had been, an increasingly angered Mr. Hanrahan made his men available for exclusive interviews with The Chicago Tribune and provided the paper with police photographs that he said "conclusively proved the Panthers fired first."

"Bullet holes" in the pictures proved to be nail heads and the banjk of a bedroom door riddled by police fire was described as the front of a bathroom door allegedly shot up by Panthers.

Then he conducted a 28-min-

ute "re-enactment" of the raid by policemen on local television station WBBM-TV.

"The great variance between the physical evidence and the testimony of the officers raises a question as to whether the officers are falsifying their accounts," the grand jury report said.

But, because the Panther refused to testify, the report said, "no one has appeared before the grand jury with a specific allegation of wrong doing by them."

Conclusion Avoided

The report goes on to say: "The question here is whether the facts establish probable cause to believe that the officers involved intentionally committed acts which deprived the occupants of Federally protected rights, contrary to law. The grand jury is unable to reach that conclusion."

The seven Black Panthers who survived the raid were subsequently indicted by a county grand jury for attempted murder and other charges. The case was largely based on the police laboratory identification of two shotgun shells as having been fired by a gun reportedly in the possession of Miss Brenda Harris, a Panther.

The Federal Bureau of Investigation found that both of the shells had been fired from a police shotgun, the report said, and Mr. Hanrahan was informed of this.

Mr. Hanrahan appeared before the grand jury on May 5. On May 7, he denied that charges against the seven Panthers would be dropped. On May 8, he dropped the charges.

The night before the report was released, Chicago Police Supt. James B. Conlisk Jr. demoted three top-ranking police officers who had been criticized in the report.

These circumstances gave rise to widespread speculation that a deal had been made between the Federal prosecutors and the State's Attorneys office. When the grand jury returned a report, rather than indictments, the speculation increased.

Prosecutors' Instructions

Grand juries normally follow the instructions of the prosecutors in reaching their findings. In this case, the report itself was written by James P. Turner, Deputy Assistant Attorney General.

The report said that an internal investigation of the incident by the police department was "so seriously deficient that it suggests purposeful malfeasance."

The grand jury found that Deputy Police Supt. John Mulchrone — now demoted — and the police sergeant assigned to the investigation, John Meade, had met with Sergeant Groth, Assistant State's Attorney Richard Jalovec, who authorized the raid, and two other assistant state attorneys to draw up a list of questions and answers about the raid.

Sergeant Meade, the report said, then conducted his investigation by getting Sergeant Groth and the 13 other policemen in the raiding party to agree to the authorized questions and answers. All were exonerated within a matter of days.

Asked if the questions "intended to test the truth and veracity" of the policemen, Sergeant Meade testified:

"No, I assume that everything they said was true."

Asked for his views on the investigation, he said: "From my experience, counsel, I consider this to be an excellent investigation."

Inquiry Called 'Very Bad'

When the director of the police Internal Inspections Division, Capt. Harry Ervanian—now also demoted—was called to testify, he was asked if it was "unfair or unreasonable" to consider the investigation "a whitewash."

A "I would agree, sir, that this was an avery bad investigation, yes, Sir."

Q. "Well it was extremely bad, wasn't it?"

A. "Yes, Sir."

Q. "As a matter of fact, have you seen one as bad as this one?"

A. "No, Sir."

When Superintendent Conlisk was informed of the findings by the grand jury, the re-

ports aid, he remarked: "I am flabbergasted to think such a thing could exist."

A footnote to the report says "The former head of the Excessive Force Unit of I.I.D. for over a year could only recall one instance of hundreds during his tenure, of a shooting by police in which the officer was held at fault."

"In that instance, an officer responding to a rape victim's call fired his weapon through the door and killed the complainant."

The grand jury report also said that the police sergeant in charge of the Mobile Crime Unit at the apartment had testified "most emphatically" at the special coroner's jury inquest into the slaying that there was only one bullet hole in the living room door. But, the report continued, "Before this grand jury, the sergeant acknowledged that . . . more than one [shot] had gone through it [the door]."

'Consistent' With Shot

Although Sergeant Groth and the other policemen had repeatedly testified at the coroner's inquest that none of them had fired any shots into the living room door, the grand jury said that one of the bullet holes was "consistent" with a shot fired from Sergeant Groth's pistol.

The other shot through the door was attributed to a deer hunting slug fired from a bloodstained shotgun found by the body of Mark Clark. The slug from this gun was found, not by the police, but by Herbert MacDonnel, a ballistics expert hired by the Panthers.

The grand jury was uncertain as to which shot came first.

Although four of the policemen said throughout all of their statements and testimony that at least one shot had been fired by a shotgun held by Miss Harris as she sat on a bed inside the door, the grand jury said that it was "physically impossible for a shot to have been fired without hitting anything."

'Inadequate Analysis'

The shotgun linked to Miss Harris, the report said, was identified with an inventory slip "made out by one officer who signed another officer's name to it. The officer whose name was affixed had no personal knowledge as to whether Harris had held this gun."

The police firearms examiner who made the erroneous report on the two shotgun shells, the report said, "was required to report his findings before he had examined all of the state's attorneys police weapons."

"The examiner said," the report added, "that he could not refuse to sign a report without being fired from his job."

The report said that he had viewed his findings as an "inadequate analysis" but that he had felt "he could not complain because it was the state's attorneys office which turned the materials in to him."

The official coroner's report of Mr. Hampton's wounds, which went through several versions, was wrong, the grand jury report said, when it described one bullet entering from the left side of the head and another from the right. The coroner's report had not only erred in describing an exit wound as an entrance wound, the report said, but the "pathologist from the coroner's office misrepresented the autopsy procedures which he followed by stating that he had opened the stomach and examined the contents."

'Irreconcilable Disparity'

A third autopsy ordered by the grand jury, the report said, showed that a second autopsy performed by a physician hired by the Panthers had been correct in finding that both bullets entered from an angle to the right of the head.

But the report rejected the second doctor's contention that Hampton had been heavily drugged at the time of the shooting.

The report said that a search had been made for the dictabelt recording on which the notes for the official autopsy had been dictated, "but it was lost or destroyed."

The report said: "The major concern of this grand jury has been the irreconcilable disparity between the detailed ac-

counts given by the officers and the physical facts in evidence examined and reported by the F.B.I."

The report contained a section summarizing the testimony of several occupants of the apartment at a "people's grand jury" called by the Panthers—all to the effect that they had been sleeping and were awakened by police gunfire—but said the proceedings had no legal weight.

Much of the report was taken up by criticism of the Panthers for their revolutionary stance and their refusal to testify; of their attorneys for holding news conferences and of the press for printing articles that might undermine public confidence in the law.

After that grand jury report was issued, Mr. Leonard heatedly denied charges that a deal had been made and said that he was satisfied with the report.

"This system does work and don't let anyone tell you it doesn't," Mr. Leonard told reporters here in announcing the report. "But it needs a lot of work to make it work."

Mayor Richard J. Daley said that he had been "shocked" by the grand jury findings.

Mr. Hanrahan, the normally combative state's attorney, is refusing to take telephone calls from reporters.

But Thomas Todd, a black lawyer who resigned from the United States Attorney's office here last week after becoming bitter over the Nixon Administration's racial policies, described the report as "just a political gesture."

"There are simple-minded whitewashers and sophisticated whitewashers," he says. "The I.I.D. was a simple-minded whitewash while the grand jury was a sophisticated one."

U.S. AGENTS TO GET CHICAGO RAID ROLE

Special to The New York Times

CHICAGO, May 22—States Attorney Edward V. Hanrahan, who was criticized by a Federal grand jury for his handling of a raid Dec. 4 on a Black Panther apartment, said today that Federal agents would be invited to participate in all future searches for illegal guns and ammunition.

He also said that specific approval for future gun raids would have to be given by the chief justice of the criminal division of the Circuit Court or by the States Attorney's first assistant.

To Black Panther leaders were killed and four others were wounded in the raid. Seven Panthers who survived the raid were charged with attempted murder after the policemen swore that the Panthers had opened fire on them.

A criminal charges were dropped two weeks ago after Mr. Hanrahan conceded he did not have enough evidence to prove that any of the survivors had fired at the police.

Mr. Hanrahan said three of his assistants who had been involved in planning the raid were being transferred to other duties within his department.

He also said that nine of the 14 Chicago policemen who conducted the raid would be transferred from his special investigation squad back to regular police duty.