

File #:

62-116395

Serial Scope:

1476X, 1476X1, 1ST NR 1476X1

~~1ST~~ NR 1478

1480 THRU 1ST NR 1498

1500 THRU 1508

1510 THRU 1512

1514

UNITED STATES GOVERNMENT

Memorandum

- 1 - Mr. J. B. Adams
- 2 - Mr. J. A. Mintz
(1 - Mr. P. V. Daly)

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.: _____
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell.
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director Sec'y _____

TO : Mr. T. W. Leavitt ^{TWV}

FROM : F. J. Cassidy ^{FC}

SUBJECT: SENSTUDY 75

DATE: 3/8/76

- 2 - Mr. D. W. Moore, Jr.
(1 - Mr. H. A. Boynton, Jr.)
- 1 - Mr. T. W. Leavitt
- 1 - Mr. F. J. Cassidy
- 1 - Mr. J. G. Deegan
- 1 - Mr. R. L. Shackelford
- 1 - Mr. S. F. Phillips
- 1 - Mr. D. Ryan

PURPOSE:

This is to report the review by Intelligence Division (INTD) representatives of the Senate Select Committee (SSC) draft report on our discontinued Counterintelligence Programs (Cointelpros) and to recommend our comments relating to the report, as furnished on 3/3/76 to the SSC staff, be furnished to the Attorney General for possible referral by him to the Committee and/or the White House.

SYNOPSIS:

On 3/2-3/76 INTD Supervisors Don K. Pettus, Arthur G. Pote and David Ryan reviewed the 133-page (double spaced) SSC draft report dated 2/24/76, entitled "Cointelpro: The FBI's Covert Action Programs against American Citizens," at SSC offices for the need for classification. Two items appearing in the report requiring classification of "Secret" or higher were identified to the SSC and will be outlined separately. Upon completion of the review of the report, the FBI representatives submitted to the SSC staff a brief statement indicating that because the report was based upon selective documentation, contained conclusions phrased in a subjective and condemnatory manner, and because the reviewers were denied access to depositions and other documentation referred to in the draft, it was felt no purpose would be served in attempting to refute or contradict conclusions by the draft's authors, and therefore no comment would be made. Further, the statement indicated a concern that inadequate consideration was given to the rights of privacy of those

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 HEREIN IS UNCLASSIFIED
 DATE 11-8-00 BY SP-2 [signature]

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 62-116009-1514

Enclosures - Sent 3-25-76
62-116395

REC-115

5 MAR 29 1976
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1 - 62-116009 (Cointelpro)

SEE DETAILS PAGE 3

DR/DKP/AGP:lfj
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5- [signature]

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ASSISTANT DIRECTOR
INTELLIGENCE DIV.

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INTELLIGENCE DIV.

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LEGAL COUNSEL

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Memorandum to Mr. T. W. Leavitt
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62-116395

mentioned directly or indirectly in the draft report. The draft, on its first page, alleges "Cointelpro is the story of decent men who did terrible things for what they saw as the greater good of the country" and later editorializes "the only conclusion that can be drawn from the cases is that the Bureau considered the First Amendment a danger to the country," and these conclusions characterize the overall tenor of the draft. Numerous selective quotes are incorporated in the report from documents and depositions, some of which are obviously out of context. Former Assistant to the Director William C. Sullivan is cited, as are former Assistant Director Charles D. Brennan and Section Chief George C. Moore of the INTD. Also, INTD supervisors Thomas J. Deakin, Russell Horner (retired) and David Ryan are cited extensively. The report concludes Cointelpros became more damaging to constitutional rights as they progressed, with the latter two programs targeting Black Nationalists and New Left, the most offensive. Selective, incomplete summaries of numerous Cointelpro actions are cited, usually without characterizing the subversive or extremist nature of the targets or detailing the true objective of the FBI. While the report indicates the FBI notified the Executive and Legislative Branches regarding the existence of the Cointelpros, it downplays this effort by indicating the notification was vague and incomplete and by citing two former Attorneys General alleged ignorance of the programs. An effort is made to discredit the review of the Department (Petersen Committee of the Criminal Division) and Civil Rights Division review of Cointelpros as incomplete.

ACTION:

That the attached letter enclosing a memorandum setting forth the comments of the Special Agents who reviewed the draft report be forwarded to the Attorney General for his information and for possible referral to the SSC and/or the White House.

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- 2 -

SR *B* *K*

APPROVED:
Assoc. Dir.....
Dep. AD Adm.....
Dep. AD Inv.....
Asst. Dir.:

Comp. Syst.....
Ext. Affairs.....
Gen. Inv.....
Ident.....
Inspection.....
Intell.....
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DETAILS:

On 3/2-3/76, Intelligence Division Supervisors Don K. Pettus, Arthur G. Pote and David Ryan visited the SSC offices at the Dirksen Office Building to review the 133-page (double spaced) Committee draft report on discontinued FBI Cointelpros. Barbara Banoff of the Committee staff made available three copies of the SSC draft report dated 2/24/76, entitled "Cointelpro: The FBI's Covert Action Programs against American Citizens," which were to be reviewed for classification. The copies of the draft report were noted "Sensitive" and it was indicated each copy was one of 13.

Classification: Two items appearing in the draft report were deemed by the reviewers to require classification of "Secret" or higher as their disclosure could jeopardize sensitive sources and/or techniques in the foreign intelligence area. These two items were identified on a separate sheet of paper and furnished to the SSC on 3/3/76. They are being identified by separate memorandum.

Statement to SSC Staff: Upon completion of the review of the draft on 3/3/76, the FBI representatives submitted in a sealed envelope to Miss Banoff a statement reading as follows:

At the invitation of the Senate Select Committee (SSC) staff, on 3/2-3/76, FBI representatives reviewed the draft report of the Committee, dated 2/24/76, entitled, "Cointelpro: The FBI's Covert Action Programs against American Citizens." Items appearing in this report which require classification have been separately identified on this date to the SSC staff.

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The SSC draft report is based upon selective documentation using out-of-context quotes from FBI correspondence and depositions in support of conclusions which are phrased in a subjective and condemnatory manner in language calculated to present the Bureau in a most unfavorable light.

As the entirety of the draft is couched in phrases intended to indicate the Bureau deliberately violated constitutional rights, and that that violation was in fact its motive; and as the FBI reviewers had no concurrent access to the depositions and other documentation referred to in the draft, it is felt no purpose would be served in attempting to refute the allegations page by page. Nor would any valid purpose be served in attempting to argue with or contradict conclusions reached by the draft's authors. Therefore, no comment will be made on the content of the draft.

Finally, it is a matter of concern that inadequate consideration was given to the rights of privacy of those mentioned directly or indirectly in the draft, whether private citizens, organizations which cooperated with the FBI, or officials.

In reference to the above statement, the FBI reviewers asked for a copy of SA Ryan's deposition which had previously been submitted to the Committee so it could be checked against the draft to verify the accuracy of statements attributed to Ryan in the draft and also to determine if they had been utilized out of context. After

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checking with the Committee Security Officer, Miss Banoff advised the FBI reviewers would not be afforded access to any depositions or other supporting documentation of the Committee.

Editorialization by the SSC: The draft, on its first page, alleges "Cointelpro is the story of decent men who did terrible things for what they saw as the greater good of the country," without any supporting material. Later, and throughout the report, it is indicated "The techniques were adopted wholesale from wartime intelligence," apparently paraphrasing information furnished to the Committee by former Assistant to the Director William C. Sullivan who is cited in the report as describing counterintelligence as "dirty business." "The unexpressed major premise of programs (Cointelpros) was that a law enforcement agency has not only the right but the duty to maintain the existing social and political order by secretly manipulating thoughts and behavior and to immobilize those who threaten that order by seeking activity to change it or by adopting visibly different life styles." Further in the report, Cointelpro is described as "a declaration of war on the advocates of change" and also characterized as a "sophisticated vigilante operation." The draft attempts to depict the Bureau in a most unfavorable light by such statements as "The image of an agent of the U. S. Government scrawling a poisoned pen letter to somebody's wife in language usually reserved for a bathroom's walls is not a happy one." Finally, the draft alleges "The instances of attacks on speaking, teaching, writing and meeting go on and on." There follow several examples of "attacks," leading to the draft's statement that "The only conclusion that can be drawn from the cases is that the Bureau considered the First Amendment a danger to the country," a conclusion which is felt to be characteristic of the overall tenor of the language of the draft.

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Quotes from Depositions: Among the present and former Bureau officials quoted in the draft are former Assistant to the Director William C. Sullivan, Assistant Director Charles D. Brennan, Section Chief George C. Moore, and Supervisors Thomas J. Deakin, Russell Horner and David Ryan, all of the INTD. As noted above, access to the full depositions of these officials is apparently not available even to those who furnished said depositions.

However, Ryan's deposition is quoted in the draft in several instances in a manner believed to be inaccurate or at best distorted to support SSC conclusions. It is indicated in the draft that Ryan, in his deposition, described "fellow travelers" as "those taking positions supported by the communists, such as school integration, increased minority hiring and opposition to HUAC." Although Ryan recalls defining "fellow travelers" in his deposition, the description furnished in the draft report is not recalled, is not in his wording, and is not in accordance with his views.

Also, in a footnote further in the report, a number of lurid and sexually oriented techniques are cited followed by the statement "The subject could go on, but the subject is, 'as Ryan put it,' 'degrading.'" Ryan specifically remembers his use of the word "degrading" was in reference to the insistence of SSC staff members to discuss sexually oriented techniques to the exclusion of all others during his deposition, and not to characterize Cointelpro. (Banoff was orally advised by Ryan on 3/3/76 of this distortion).

Definition of "New Left": In an obvious attempt to support its contention that the titles of the various Cointelpros and the targets were vague and ill-defined, the draft report indicates "nor could anyone at the Bureau even define 'New Left'" on page 4. This statement

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is again reported on page 9. However, on page 40, in an apparent self-contradiction, the report states "Some agents defined 'New Left' functionally, by connection with protest. Others defined it by philosophy, particularly antiwar philosophy." The draft report ignores the fact that former Assistant Director Brennan, in his public testimony before the SSC, was asked to and did define "New Left." Additionally, Ryan in his deposition indicated to the SSC he could define "New Left" but did not believe it pertinent to his testimony. One former INTD supervisor is cited in the report as stating in his deposition he was unable to define "New Left," and that he recalled no specific definition in Bureau documents.

Emphasis on Black Nationalist and New Left Programs:

While the report indicates over half of all Cointelpro actions were conducted in the program which targeted the Communist Party, USA (CPUSA), specific actions in this area are alluded to in a vague and generalized manner. The report concludes the Cointelpros became more damaging to constitutional rights as they progressed, with the final two programs, which targeted Black Nationalists and New Left, the most offensive. Selective, incomplete summaries of numerous Cointelpro actions targeting such groups as the Black Panther Party (BPP) are cited with either no characterization of their propensity for violence or with incomplete descriptions regarding their extremist or subversive nature.

A specific example of failure to characterize an organization with a propensity for violence occurred in the summary of a Cointelpro action directed against a member of the Black Liberators. A characterization of the organization would have disclosed it as a pseudo military group composed of black militants who sought open confrontation with the establishment and emulated the BPP in its aims. In addition to the failure to characterize organizations, no effort was made

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throughout the draft to outline the true objective of the FBI or to indicate any positive results were obtained in any instance. Also, on one occasion the report cites in some detail a suggested technique of a sensationalist nature which the draft states was "apparently" dropped, ignoring a communication furnished to the SSC reflecting that the proposal had been dropped.

Unreported Cointelpro Activities: Quoting former Assistant to the Director Sullivan, the draft report states that although the formal program was instituted in 1956, Cointelpro-type activities had been conducted by the FBI for years. It cites the originating Cointelpro document in the CPUSA as indicating an "ad hoc" Cointelpro consisting of "harassment" had existed for years primarily operated by the field offices. The formal Cointelpros are described as an effort by the FBI to expand and formalize the scope and targets.

The SSC draft comments that it had been advised of two Cointelpro actions effected after FBI Headquarters issued instructions that the programs be discontinued and indicates a comprehensive review of FBI files would undoubtedly uncover numerous others.

To support this contention, the report states the SSC discovered a third instance of Cointelpro action which occurred four months after termination of the programs. This instance involved the furnishing of information to a friendly newspaper source under the so-called "Mass Media Program" intended to discredit an attorney and his client. A footnote at this point in the report indicates that Charles Colson spent seven months in jail for similar activity involving the client.

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An effort is made in the draft report to indicate Cointelpro actions were conducted under other titles and, as alleged by the Socialist Workers Party, are still being conducted in the form of harassment interviews, contacts with employers, etc. The draft states ". . . actions in the Rev. Martin Luther King case which cannot, by any stretch of the language, be called 'investigative' were not called Cointelpro, but were carried under the investigative caption."

Inciting Violence: The report makes an extensive effort by citing selective actions to indicate Cointelpro intended to incite violence, including murders. In what appears to be an obvious attempt to characterize the FBI as unconcerned regarding violence, former Section Chief "Moore was asked whether the fact no one was killed was the result of 'luck or plan.' He answered: 'Oh, it just happened that way, I am sure.'" Numerous examples of actions directed against the BPP, and particularly the BPP-US feud, are cited to indicate the FBI incited violence which could be attributed to actual murders. Frequent reference is made to "snitch jacket" techniques which are described as "labeling a group member an informant when he is not." Although this expression is not known to have been utilized within the Bureau, the report accredits it to former Section Chief Moore and indicates this technique could well result in violence. The report does indicate in one instance in 1971 a technique was "rejected because of the possibility it would result in a target's death." It downplays these instructions by stating two other unidentified techniques which could result in murder were approved shortly thereafter.

The draft report indicates a separate report is being prepared on disruptive efforts aimed at the Panthers and it "will examine in detail the Bureau's attempts to foment violence."

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Memorandum to Mr. T. W. Leavitt
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Notification: In a more objective treatment, the draft report sets out in some 15 pages details relating to Bureau documentation alerting members of the Executive Branch, including the Cabinet, and members of the Legislative Branch to the existence of the Cointelpros. However, it is indicated that only the CPUSA and White Hate Programs were discussed in documents notifying officials outside the Bureau, and in these instances the references to Cointelpro were generalized or vague. The report emphasized the Fiscal Year 1963 budget testimony explicitly outlines our Cointelpro efforts, but questions that such information was ever presented before the Subcommittee on Appropriations.

Department Review: The draft report criticizes the Department of Justice review of FBI Cointelpros (Petersen report) as incomplete, implying cover-up or a lack of penetrative interest. It is indicated Department attorneys working with the Petersen Committee were not allowed to work with original Bureau files/documents and were required to rely on FBI-prepared write-ups which were incomplete. Portions of legal memoranda which appeared as exhibits in the original Petersen report, and which have not previously been publicized, are cited in the SSC draft and these, too, are taken out of context or limited to support contentions of the SSC. The SSC draft differs with the conclusions of the Petersen Report in that interferences with First Amendment rights in the Cointelpros were "insubstantial" and also in the Petersen report classification of some techniques as "legitimate." It is indicated that although the Petersen report concluded infringements upon First Amendment rights constituted only a small percentage of the overall techniques, the victims in these instances would not consider the attack upon their rights as insubstantial.

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In regard to the review of the Cointelpros by representatives of the Civil Rights Division, the SSC draft indicates the decision that prosecution was not warranted was "a finding endorsed by Assistant Attorney General Stanley Pottinger after a hasty two-day review of the documents in 1975." (On 3/3/76 Ryan pointed out to Banoff that in his deposition he had indicated he had been present when representatives of the Civil Rights Division, including Pottinger, had reviewed the Cointelpro files and he considered the review had been thorough, both as relates to general and specific areas. Banoff responded by saying Pottinger, himself, had been interviewed and had indicated his review had been "hasty." It is noted Civil Rights Division attorneys reviewed the five basic Cointelpros on three separate days and spent an additional day reviewing more recently uncovered FBI Cointelpro files.)

Miscellaneous: Typical of distortions appearing in the SSC draft was the statement "As David Ryan, Chief of the Cointelpro Unit. . ." which indicates an overall responsibility of Ryan for over-all Cointelpro activity. (Banoff was advised on 3/3/76 that in his deposition he indicated he had been a Unit Chief responsible for Cointelpro during the period 1963-67, and his primary involvement was with the CPUSA effort. Banoff agreed the phrase was a distortion and commented she realized Ryan had no involvement with the Black Nationalist or New Left Programs.)

The SSC draft cites Supervisor Thomas J. Deakin as ". . . the only Bureau witness to have reservations about Cointelpro's constitutionality." Continuing, the report states "Another witness

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gave a more typical response. When asked whether anybody at any time during the course of the programs discussed their constitutionality or legal authority, he replied 'No, we never gave it a thought.' (Moore deposition)."

Information set forth above is typical of the distorted character of the SSC report. Ryan specifically recalls when he was being deposed he was questioned if consideration had been given to the constitutionality of Cointelpro techniques and he responded affirmatively. Ryan not only indicated this was a continuing consideration, but he cited examples. One example which appears in Ryan's deposition relates to Cointelpro efforts to expose and preclude clandestine Communist Party use of meeting halls. Ryan advised former Assistant to the Director Alan H. Belmont had questioned the constitutional proprieties of such action as possible violations of the First Amendment rights, and efforts had been made to preclude such infringements. It would appear the SSC staff selectively and deliberately ignores information available to it furnished by witnesses.

Notionals (fictitious organizations) are briefly alluded to in the draft report. Three examples are given. One relates to an organization whose members are all Bureau informants. The report indicates a notional chapter of the W. E. B. DuBois Club was considered but never effected. A second type organization is described as one with unsuspecting (non-informant) members, and in this example the establishment of a Klan organization under the control of a Bureau informant (the Confederate Knights of the Ku Klux Klan) is mentioned, indicating the Bureau paid the informant's expenses in setting up this 250-member group. The third example relates to an organization which is wholly fictitious for the purpose of disseminating propaganda. The Committee for Expansion of Socialist Thought in America (CESTA) is described as such a group. CESTA attacked the

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Memorandum to Mr. T. W. Leavitt
Re: Sensstudy 75
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CPUSA from the Marxist right for two years in approximately 1965-67. Although the SSC draft is not severely critical of CESTA, it makes no effort to point out evidence indicating the operations was successful, it being noted this information was available to it.

While at the SSC offices, staff member Walter Ricks furnished the FBI reviewers pages 17-52 of the SSC draft report relating to FBI/Internal Revenue Service (IRS) matters, and specifically to disclosure by IRS of tax information to the FBI. This report indicates approximately 200 requests were made by the FBI for tax returns between 1966 and 1974, and 130 of these were for domestic intelligence or "counterintelligence" purposes. It is indicated the 130 requests primarily related to New Left and black extremist matters. Although a large portion of this report cites the use of tax information for Cointelpro purposes, the reviewers advised Ricks they were not primarily responsible for reviewing this section of the SSC draft report.

- 1 - Mr. J. B. Adams
- 2 - Mr. J. A. Mintz
(1 - Mr. P. V. Daly)

The Attorney General

March 3, 1976

Director, FBI

- 1 - Mr. T. W. Leavitt
- 2 - Mr. S. F. Phillips

U. S. SENATE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES (SSC)

#models
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DATE 11-8-00 BY SP2 AML/HG

Reference is made to the SSC letter of February 19, 1976, relating to the testimony of FBI Deputy Associate Director James B. Adams before the SSC concerning the FBI's investigation of Martin Luther King, Jr., and requesting material pertaining thereto.

Enclosed for your approval and forwarding to the SSC is the original of a memorandum responsive to the SSC request. A copy of the memorandum for your records is also enclosed.

Enclosures (2)

62-116395

REC-113

1 - The Deputy Attorney General
Attention: Michael E. Shaheen, Jr.
Special Counsel for
Intelligence Coordination

62-116395-1512

14 MAR 29 1976

2 ENCLOSURE

SFP:eks
(10)

- Assoc. Dir. *am*
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SEE NOTE PAGE 2

TO BE HAND-DELIVERED BY OFFICE OF CONGRESSIONAL AFFAIRS

MAIL ROOM TELETYPE UNIT

Delivered to Dept 3-11-76 JCS AD
Delivered to Committee 3-15-76

✓ S.F. Phillips
4063

The Attorney General

NOTE:

A copy of referenced SSC request is attached below the yellow of this letterhead memorandum (LHM). In respect to the current SSC request for a list or itemization, the following should be noted. J. G. Deegan to Mr. W. R. Wannall memorandum 12/18/75, reported the request of Mr. Shaheen of the Department for a list of the reported 25 COINTELPRO-type activities the FBI engaged in against King. He stated that the request was channeled to him from the Attorney General through Philip White of the Criminal Division. We then prepared such an informal listing and delivered a copy to Shaheen as noted in the Deegan memorandum and we noted that with little exception, all the material referred to on the list had previously been given to the SSC, including underlying documents. In connection with the current SSC request, Mr. Shaheen was consulted by Supervisor S. F. Phillips of the SENSTUDY 75 Project and he agreed that it was unnecessary to prepare any actual list or itemization but merely refer the SSC to its prior requests and our responses thereto. This has been done in the LHM now going forward.

- 1 - Mr. J. B. Adams
- 2 - Mr. J. A. Mintz
(1 - Mr. P. V. Daly)
- 1 - Mr. T. W. Leavitt
- 2 - Mr. S. F. Phillips

62-116395

March 3, 1976

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HEREIN IS UNCLASSIFIED
DATE 11-8-00 BY SP-2 am/17

**U. S. SENATE SELECT COMMITTEE TO
STUDY GOVERNMENTAL OPERATIONS WITH
RESPECT TO INTELLIGENCE ACTIVITIES (SSC)**

Reference is made to SSC letter dated February 19, 1976, which indicated that on November 19, 1975, FBI Deputy Associate Director James B. Adams testified before the Committee that there had been "25 incidents of FBI harassment with respect to Martin Luther King, Jr." The SSC requested an itemization of the incidents to which Mr. Adams was referring. The request also noted the assumption of the SSC that all underlying materials pertaining to each of the incidents had been previously supplied to the Committee and that in the event this was not the case, the SSC desired copies of such materials.

In connection with Mr. Adams' testimony it is noted that at one point he was questioned by SSC Chairman Frank Church about FBI efforts to discredit King. In answering a specific question as to the efforts of the FBI to prevent King from having an audience with the Pope, Adams stated, "There were approximately 25 incidents, I believe, of actions taken in this regard. I think Mr. Schwarz has those available, that I would lump basically all of them into the same situation"

At the time of Mr. Adams' testimony, his reference to "approximately 25 incidents" was not based on any list or itemization of such incidents which the FBI may have compiled. Rather, he was referring in approximate numbers and general terms to the number of incidents whereby the FBI had taken actions concerning King which could be described as "discrediting"

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

- Assoc. Dir. _____
- Dep. AD Adm. _____
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ENCLOSURE

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