

File #:

62-HQ-116395

Serial Scope:

811, 813-821, 822, 823-829, 831-833, 834,  
835-843, 844, 845-862, 863x

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USC 2107 Note). Case#:JFK 55241 Date: 11-20-2017

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# United States Senate

SELECT COMMITTEE TO  
STUDY GOVERNMENTAL OPERATIONS WITH  
RESPECT TO INTELLIGENCE ACTIVITIES

(PURSUANT TO S. RES. 21, 94TH CONGRESS)

WASHINGTON, D.C. 20510

October 1, 1975

Michael E. Shaheen, Jr., Esquire  
Special Counsel for Intelligence  
Coordination  
Office of the Deputy Attorney General  
U. S. Department of Justice  
Washington, D. C. 20530

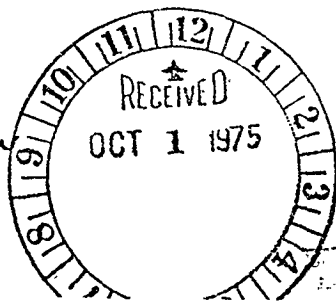
Dear Mr. Shaheen:

In my letter to you of September 11, 1975, request was made (No. 25) for disclosure of telephone logs derived from electronic surveillance of a number of individuals. Your office has advised that such logs exist and access is now requested for review of these documents by David Bushong and Andrew Postal. *File* Request is also made for review of any files which may contain information (including logs) relating to electronic surveillance of the following.

1. Santos Trafficante ✓
2. Tony Varona ✓
3. Miro Cordona ✓
4. Manóillo Ray ✓
5. Pedro San Juan ✓
6. Enrico Ruiz Williams ✓
7. Roberto Sanroman ✓

Pursuant to request No. 26 of September 11, 1975, letter we additionally request that the logs produced from electronic surveillance of Santos Trafficante be made available for review by Messrs. Bushong and Postal.

cc: Uhlmann



62 114 375-863  
5-  
*[Handwritten signature]*

Date of Mail 10/2/75

Has been removed and placed in the Special File Room of Records Section.

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DATE 10-24-00 BY SP2AM/RW

See File 66-2554-7530 for authority.

Subject JUNE MAIL SENSTUDY

Removed By 79 FEB 23 1976

File Number 62-116395-

Permanent Serial Charge Out



FBI

OFFICE OF THE DEPUTY ATTORNEY GENERAL  
WASHINGTON, D.C. 20530

OCT 7 1975

TO: John A. Mintz, Assistant Director  
Legal Counsel Division  
Federal Bureau of Investigation

FROM: Michael E. Shaheen, Jr.  
Special Counsel for Intelligence  
Coordination

*Senstivity* 75

SUBJECT: Senate Select Committee Request

Attached is a letter from the Senate Select Committee dated October 6, which seeks delivery of certain materials pertaining to Martin Luther King, Jr. by October 17. Please prepare an appropriate response.

2

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22  
ENCLOSURE

REC-102

62-116395-862

OCT 9 1975

cc: Paul Daly

*Legal Counsel*

Ad Hoc  
10-8-75  
84 MAY 13 1976

62-116395

5-Ewl

OCT 7 1975

TO: John A. Mintz, Assistant Director  
Legal Counsel Division  
Federal Bureau of Investigation

FROM: Michael E. Shaheen, Jr.  
Special Counsel for Intelligence  
Coordination

SUBJECT: Senate Select Committee Request

Attached is a letter from the Senate Select Committee dated October 6, which seeks delivery of certain materials pertaining to Martin Luther King, Jr. by October 17. Please prepare an appropriate response.

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HEREIN IS UNCLASSIFIED  
DATE 10-27-00 BY SP2AUM/R

cc: Paul Daly

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FREDERICK A. O. SCHWARZ, JR., CHIEF COUNSEL  
CURTIS R. SMOTHERS, MINORITY COUNSEL

## United States Senate

SELECT COMMITTEE TO  
STUDY GOVERNMENTAL OPERATIONS WITH  
RESPECT TO INTELLIGENCE ACTIVITIES

(PURSUANT TO S. RES. 21, 94TH CONGRESS)

WASHINGTON, D.C. 20510

October 6, 1975

Michael E. Shaheen, Jr., Esq.  
Special Counsel for Intelligence Coordination  
Office of the Deputy Attorney General  
U. S. Department of Justice  
Washington, D. C. 20530

Dear Mike:

Enclosed is a request for documents per-  
taining to the Martin Luther King, Jr. matter.  
Delivery is requested by Friday, October 17, 1975.

Your cooperation is appreciated.

Sincerely,

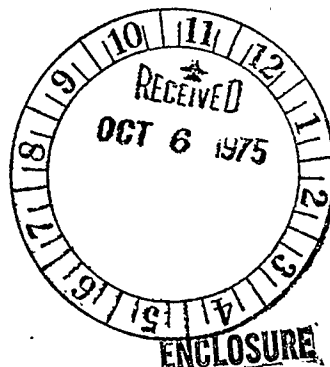
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DATE 10/28/00 BY SP2A/MPK

*John T. Elliff*  
John T. Elliff  
Director

Domestic Intelligence Task Force

Attachment



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DATE 02/10/00 BY SP2ALM/ku

1. On or about January 8, 1962, the Southern Regional Council, Atlanta, Georgia, issued a Special Report entitled "Albany" by Professor Howard Zinn, which on pages 31 - 33 (attached hereto), inter alia, contains a discussion about the FBI. Please supply the Committee with all materials pertaining to or reflecting:
  - a. the FBI's receipt or awareness of this report, or its contents;
  - b. comments, analyses, inspections, reports, and/or responses with respect to allegations in this report which pertained to the FBI; and
  - c. actions taken as the result of allegations in this report which pertained to the FBI.
2. On or about November 14, 1962, the Southern Regional Council, Atlanta, Georgia, issued a report entitled "Albany, A Study in National Responsibility," by Professor Howard Zinn, which on pages 26-34 (attached hereto), inter alia, contains a discussion about the FBI. Please supply the Committee with all materials pertaining to or reflecting:
  - a. the FBI's receipt or awareness of this report or its contents;
  - b. comments, analyses, inspections, reports, and/or responses with respect to allegations in this report which pertained to the FBI; and
  - c. actions taken as the result of allegations in this report which pertained to the FBI.
3. All memoranda from the Director, FBI, to the Attorney General, from January 1, 1961, through February 13, 1962, concerning Martin Luther King, Jr. (Please excise portions which were the product of electronic surveillance.)
4. All memoranda and other materials reflecting what was communicated by the FBI Director to the Attorney General on January , 1962, concerning Martin Luther King, Jr., as is indicated in the first paragraph of

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**ENCLOSURE**

the February 14, 1962, memorandum from the FBI Director to the Attorney General captioned "Martin Luther King, Jr.". (Please excise portions which were the result of electronic surveillance.)

5. All memoranda and other materials pertaining to any decisions and authorizations for electronic surveillance of the following individuals:

- a. Stanley David Levison;
- b. Hunter Pitts O'Dell;
- c. Clarence Jones;
- d. Harry Wachtel;
- e. Ralph Abernathy;
- f. Student Non-Violent Coordinating Committee (SNCC);
- g. John Lewis;
- h. Bayard Rustin;
- i. Congress of Racial Equality;
- j. James Farmer;

as well as dates of authorization, installation, and termination; type of surveillance involved (microphone or telephone); and locations of all telephones and premises surveilled.

6. All memoranda and other materials pertaining to the testimony before the Senate Commerce Committee of:
- a. Governor Ross Barnett on July 12, 1962;
  - b. Governor George Wallace on July 15-16, 1962.
7. All memoranda and other materials pertaining to:
- a. A letter from Senator Warren G. Magnuson to the FBI Director in July 1963 inquiring about any relationship between racial unrest and the Communist Party;



- b. The Attorney General's reply to Senator Magnuson, dated July 23, 1963 (a copy is attached hereto as printed in the record of the Hearings before the Commerce Committee, United States Senate, 88th Congress, 1st Session, on S. 1732 (Public Accommodations), pp. 375-376.
  - c. The last question and answer in the President's press conference of July 17, 1963 (copy attached hereto), pertaining to racial unrest and the Communist Party.
  - d. A letter from Senator Mike Monroney to the FBI Director in July 1963 inquiring about any relationship between racial unrest and the Communist Party.
  - e. The Attorney General's reply to Senator Monroney, dated on or about July 25, 1963, as reported in the Washington Evening Star on July 25, 1963 (copy of article attached hereto).
  - f. A letter from Senator Richard Russell to the FBI Director dated July 27, 1963, inquiring about any relationship between racial unrest and the Communist Party.
  - g. The Attorney General's reply to Senator Russell dated on or about November 1, 1963.
8. All memoranda and any other materials pertaining to the August 1, 1963, conversation between the Attorney General and Courtney Evans which is described in the last paragraph on page 4 of a February 5, 1964, memorandum from C. D. DeLoach to Mr. Mohr, captioned "Dr. Martin Luther King, Jr., Information Concerning".
  9. We are submitting herewith a copy of the excised version of a January 28, 1964, memorandum from F. J. Baumgardner to W. C. Sullivan, labelled "June". Your advice is requested (a) whether the deleted phrases pertain to Dr. King's private life, or (b) whether the deleted phrases pertain to Dr. King's associations with persons believed to be associated with the Communist Party.

10. The identity of the author of the document entitled "Questions to be explored at conference 12/23/63 re communist influence in racial matters," which has previously been supplied to the Committee.

through a hole in the door, but a guard came along and hit him in the back as he was passing the plate through the opening. He fell against the bars and cut his head. (Police Chief Pritchett fired the guard on after.)

When I went to the sheriff's office Wednesday morning, December 20, to see one of the original Freedom Riders still in the county jail, I was told they were allowed no visitors except for a lawyer. Husbands, wives, mothers, fathers, could talk to prisoners only by shouting through a barbed wire fence at a thick-washed wire window through which no one inside was visible.

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At the prayer meeting in the Shiloh Baptist Church that Tuesday night after the settlement, a young white girl arrested with the original group on Sunday, came down the aisle to the rostrum. She had been released from jail a few minutes before and was out of breath. She spoke briefly, softly. "First time I'd ever seen a jail. It's a funny mixed-up feeling to hate being in a dirty place but to be glad you're there for a good reason....We hope you'll keep going."

The Police Chief of Albany said, "We met non-violence with non-violence."

Where was the Federal Government?

While young people on three separate occasions were being ordered out of Albany terminals and arrested, while over 700 persons were arrested and over 400 kept in jail for marching downtown to sing, pray, and protest, the Federal Government, pledged through specific Constitutional guarantees, statutes, and administrative rulings to protect the rights of citizens against local usurpation, took the following visible actions:

On November 1, 1961, when Selyn McCollum watched the police order nine young Negroes out of the white waiting room at the Trailways Bus Terminal, and this was reported to the F.B.I., there was no apparent result. On November 22, when five students were arrested for using the Trailways facilities in Albany, no federal action was visible. When Chief Pritchett ordered the Freedom Riders outside the railroad waiting room on December 10, and then arrested 11 in the street, for the third time in six weeks the express ruling of a Federal Agency failed of enforcement. With the start of demonstrations and mass arrests on Tuesday, December 12, local police practice came into conflict, not with the very pointed I.C.C. ruling, but with broader -- and more complex -- issues represented by the Bill of Rights: freedom of assembly, the right of petition.

On Wednesday, with more demonstrations and more arrests, telegrams began going to Attorney General Kennedy asking federal intervention. On Thursday -- more demonstrations, more arrests -- and the New York Times reported from Albany that, "The Justice Department was watching developments here closely." That day, Attorney General Kennedy conferred by phone with both Governor Vandiver and Mayor Kelley. The Mayor said he assured the Attorney General that law and order could be preserved without federal aid. Also that day, the Assistant Attorney General in charge of the Civil Rights Division talked with Albany Movement leader W. G. Anderson. On Friday, with demonstrations and negotiations in progress, he phoned Mayor Kelley and offered to mediate, and the mayor assured the Assistant Attorney General that the city could work out its problems. On Saturday, negotiations broke down. Martin Luther King, Jr. led the march downtown that

evening, hundreds more were arrested, and the NAACP wired Vice President Johnson and Attorney General Kennedy to protest the arrests. F.B.I. men were reported cruising the streets in cars.

On Monday, December 18, a settlement was announced, and within a hour Mayor Kelley said Attorney General Robert Kennedy called to congratulate him for a good job.

Events in Albany were caused by the city's violation of the Interstate Commerce Commission's regulation. The Federal Government took no apparent action to curb that violation, although it undoubtedly has power to enforce its own orders. Today in Albany the I.C.C. order is being complied with. It was enforced, not by federal authority, but by demonstrations in the streets.

#### Conclusion

Over 700 Negroes in Albany, and a few sympathetic whites, spent time in prison in December of 1961, as a mass substitute for federal action to compel recognition of a legal right. They were not opposed by the white people of Albany, but by local law enforcement officers. These officers acted, not out of malice, but out of a too-faint comprehension of the changes which are rolling slowly, but inevitably, through the South today, and which, with McComb, Jackson, and Albany, have begun to move into the heart of the Black Belt. As in other cases, a movement born of specific grievances was nurtured in crisis and developed larger objectives, those of full equality and untarnished human dignity.

The real feelings of the Negro community were kept from a fundamentally fair-minded white community by the powerful barrier of segregation, propped up by a hostile press and an unsympathetic city administration. As Christmas approached in 1961, masses of Albany Negroes

## Where Was the Federal Government?

*Over 700 Negroes in Albany, and a few sympathetic whites, spent time in prison in December of 1961, as a mass substitute for federal action to compel recognition of a legal right.*

OF all the forces involved in Albany, the national government is the only one whose actions do not match its expressed convictions. The Negroes of Albany have strained to the limits of their capacity to endure pain and rebuff. The white community has behaved in accord with the customs of the majority of southern whites in resisting attempts to change the status quo. The chief of police has acted like a chief of police. But the federal government has not operated according to its pretensions.

The national government has failed to protect the liberties of its citizens in the city of Albany. From the feebleness of its actions, a detached observer might conclude that the federal government is still operating under the Constitution of the United States as once expounded by Chief Justice Taft.

The First Amendment of the constitution of the United States says: "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." Supreme Court decisions in the early part of this century made it clear beyond question that these rights of free speech, petition, and assembly, are also guaranteed against state or local action by the words of the Fourteenth Amendment, that no state shall "deprive any person of life, liberty, or property, with due process of law." In Albany, hundreds of Negroes were locked up in some of the most miserable jails in the country for peacefully attempting to petition the government for a redress of grievances. Is the national government powerless to protect the right of petition?

Section 242 of the U.S. Criminal Code, which comes from the Civil Rights Act of 1866 and the Enforcement Act of 1870, creates a legal basis for federal prosecution of: "Whoever, under color of any law . . . wilfully subjects . . . any inhabitant of any State . . . to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States. . . ." Three times in succession in November and December 1961, the

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police of the city of Albany, by arresting Negroes and whites in connection with their use of the terminal facilities in that city, violated a right which has been made clear beyond a shadow of a doubt in the courts, and nailed down tight by a ruling of the Interstate Commerce Commission. Yet, the federal government took no action.

When a sheriff, in the presence of witnesses, slapped a young Negro for asking the right to sing and pray in prison, the federal government was silent. Throughout the December troubles, there were phone calls from the Justice Department to Governor Vandiver and Mayor Kelley, conversations between the Department and leaders of the Albany Movement. The F.B.I. dutifully sat in its office in Albany and took dozens upon dozens of affidavits from Negro citizens complaining that their constitutional rights had been violated by city and county officials. But eight months later, there was not a sign of action on these charges.

In the spring and summer of 1962, hundreds of Negroes, and some whites, were again deprived of their constitutional rights by city and county officials. They were put into jail again and again for taking actions supposedly protected by the First and Fourteenth Amendments. A pregnant woman was beaten, a lawyer was caned, a white youth had his jaw and ribs broken, three young people were forcibly dragged from a courtroom under the eyes of a county judge. Still no action. Eighteen-year-old Cordell Reagan, a veteran SNCC worker, emerged from Dougherty County jail in late August, after 16 days of confinement for "contributing to the delinquency of a minor" (which, translated, meant that Reagan had been sitting on the fender of a nearby car while two students were picketing a theater) made this comment to me about the Department of Justice and local police: "They're letting them get away with murder."

In December 1961, in the midst of hundreds of jailings in the Albany demonstrations, the *New York Times* reported from Albany: "The Justice Department was watching developments here closely." In September 1962, after shotgun blasts ripped into a home in Terrell County where Negro and white registration workers were staying, a Justice Department spokesman said in Washington: "We are watching the situation very, very closely."

In June 1962, six months after several flagrant violations of the ICC ruling, the *Atlanta Journal's* Washington correspondent reported: "The U.S. Justice Department has launched an investigation of alleged bus station segregation in Albany." In July, several Justice Department lawyers were sent to Albany. On the 26th of that month, according to an *Atlanta Constitution* report, Albany's Mayor Kelley conferred in Washington with Attorney General Kennedy. The *Constitution* said: "Kelley said he told Kennedy that Albany's racial problems are dealt with by local people. Kelley said Kennedy agreed with him."

Atlanta *Journal* Washington correspondent Douglas Kiker reported in July: "Justice Department officials described the Albany trouble Monday as 'a tense situation' but added that Mayor Asa Kelley and Chief of Police Laurie Pritchett 'have certainly indicated a strong desire to maintain order.' They said they had received no evidence that Albany police are not furnishing adequate law protection." This was immediately after attorney C. B. King, with more than 100 city and county police nearby, had received his bloody beating at the hands of the Dougherty County sheriff. Kiker disclosed that the Department of Justice was "investigating" the beating of King. But if there was ever a case where one hour of investigation would be sufficient to establish grounds for federal action, this was it.

Near the end of the summer, after receiving dozens of angry telegrams, after the picketing of the White House by citizens from both North and South, and after face-to-face pleas from Roy Wilkins of the NAACP and William Kunstler of the American Civil Liberties Union, the Justice Department made two legal moves: 1) it entered a friend-of-the-court brief to support the Albany Movement's request that an injunction against further demonstrations be denied; and 2) it asked for an injunction (after a violation of voting rights in Terrell County so outrageous that usually calm reporters on the scene were upset) to prevent certain officials in southeast Georgia from interfering with registration activities.

The available administrative machinery for enforcing federal law should be outlined: the Department of Justice has the duty to enforce laws passed by Congress and provisions of the U.S. Constitution. In the Department there is a Civil Rights Division, headed by an Assistant Attorney General, which handles the bulk of the legal work of the Department dealing with civil rights cases. The Division depends for its information on another branch of the Justice Department, the Federal Bureau of Investigation, which has offices in cities all over the country. F.B.I. agents undertake investigations on orders from the Department, to determine if federal law has been violated. The F.B.I. can make arrests, usually on orders from the Department, sometimes on its own in situations of urgency. After investigation, in civil rights cases, it is up to the Civil Rights Division to decide whether prosecution should be initiated. If so, this is usually done through the United States Attorney in that judicial district, who prosecutes the case in federal District Court, after indictment by a grand jury or the filing of an information. Also upon the Department's advice or order, the U.S. Attorney may file civil suits (although this may be done by a Civil Rights Division lawyer from Washington) asking that the federal court issue injunctions forbidding certain parties to engage in specified practices which may deprive individuals of their rights under the Constitution. Attached to the federal district court are U.S. marshals, who serve subpoenas, give notice of injunctive action, and otherwise carry out the orders of the court or the Attorney General. From District Court, there is



the right of appeal to the Court of Appeals, and then, in certain cases, to the United States Supreme Court.

The Department of Justice has on occasion defended its restraint in the Albany situation and in other crises by the following arguments, which deserve examination and reply:

1. Argument: Prosecutions in the Deep South stand little chance of succeeding, since juries are white and prejudiced.

Reply: Even if acquittal results, prosecution may act as a deterrent. Right now, southern police officers, knowing the government's reluctance to prosecute, feel free to do as they wish with Negro citizens, and Albany has demonstrated this. If nothing else, a series of prosecutions would exert a powerful educational and moral force in a situation where Negroes feel deserted by the national government and southern whites are not clear where the government stands.

2. Argument: The Supreme Court decision in the *Screws* case of 1945 interpreted section 242 in such a way as to make convictions difficult, because of the need to show "intent" on the part of the accused, with "intent" interpreted very narrowly.

Reply: The only way to get new interpretations of the law is to bring new cases before the courts.

3. Argument: The Department of Justice needs specific legislative authorization from Congress—as it has in the Civil Rights Acts of 1957 and 1960 regarding voting—to take injunctive action against local officials in other situations involving civil rights and civil liberties.

Reply: In the *Debs* case of 1895 there was no specific legislative basis for an injunction; yet the Supreme Court ruled that the federal government could get one, saying: "Every government . . . has a right to apply to its own courts" in matters which the constitution has entrusted to the care of the national government. The Court said: "The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the Constitution to its care."

The government may choose to interpret its own powers narrowly, or it may interpret

