

File #:

62-116395

Serial Scope:

1336, 1337, 1ST NR 1337

1338, 1339

1342X2

1344

1345X1

1346X THRU 1349X1

1350, 1350X, 1350X1

1352, 1352X

1354X, 1354X1, 1355

1357 THRU 1359



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

FEB 6 1976

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

Mike

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

SUBJECT: SSC Request Dated February 5, 1976

Attached is a letter from the SSC dated February 5, 1976. Please arrange for a prompt and appropriate response.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/5/00 BY SP2ALM/KP

L.D.
ENCLOSURE

*Per oral agreements reached between
Eeliff and Cregor, access granted to
documents per SSC 1/20/76 request
(including documents from SD) and
delivery of pertinent documents
done per SSC 2/19/76 request.
AJP*

REC-100

62-116375-1359

FEB 11 1976

LEGAL COUNSEL
[Signature]
5-8

cc: Paul Daly

LED

CO



84 FEB 19 1976

FEB 6 1976

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

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

SUBJECT: SSC Request Dated February 5, 1976

Attached is a letter from the SSC dated February 5, 1976. Please arrange for an appropriate response.

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cc: Paul Daly

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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

February 5, 1976

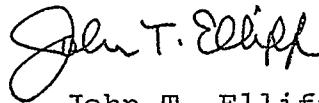
Michael E. Shaheen, Jr., Esq.
Special Counsel for Intelligence Coordination
Office of the Deputy Attorney General
U. S. Department of Justice
Washington, D. C. 20530

Dear Mike:

Regarding the Select Committee's investigation of the Secret Army Organization activities in relation to the FBI in the San Diego area, the Committee requests that a member of its staff be given access to the original materials maintained at the San Diego field office of the FBI. Such access should be initially to copies at FBI headquarters, as previously arranged, and subsequently to the originals at the field office.

In addition, I thought that the Justice Department and the FBI might be interested in the attached copy of a letter from Committee counsel Michael J. Madigan to the editor of the San Diego Union.

Sincerely,



John T. Elliff
Director
Domestic Intelligence Task Force

Enclosure

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February 2, 1976

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DATE 12/5/00 BY SP2AMK/P

Mr. Gerald Warren
Editor
San Diego Union
P.O. Box 191
San Diego, California 92112

Dear Mr. Warren:

I was surprised to read the article entitled "Report Due on FBI Probe" which appeared on the front page of the San Diego Union of January 27, 1976. The article contained statements attributed to me which were false. I regret to say that I feel this inaccurate reporting was done intentionally by your reporter, Mr. Dillon, in a brazen attempt to buttress his earlier articles about the SAO.

Specifically, Dillon's article states:

"Madigan said his four-day visit to California has confirmed most news reports about FBI involvement with the SAO's guerrilla war against political dissidents in San Diego during the early 1970's."

His article goes on to say:

"The FBI was 'very much involved' with the Secret Army Organization, a Senate investigator said here yesterday after interviewing the SAO co-founder and former FBI informant Howard Berry Godfrey."

Both of these statements attributed to me are false. I never made such statements to Dillon or anyone else. To the contrary, what few things I did say to Dillon were almost the opposite. More particularly, I asked him where the evidence was for the statement reported in his January 11, 1976 article which claimed that the FBI "created a group known as the Secret Army Organization" I told Dillon that our investigation had uncovered no such evidence. With a sheepish smile, Dillon implied that he knew of no evidence

ENCLOSURE

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fer that statement and had overstated the case. While the record of the FBI's involvement with its informer Godfrey does not present a pleasant picture, I now feel compelled to state publicly that, in my opinion, the San Diego Union articles by Mr. Dillon have presented an exaggerated picture of what really happened.

As I indicated in my telephone conversation on January 30, 1976 with Mr. McArthur of your newspaper, I am requesting that you print this letter as testimony of your newspaper's sense of fair play, honesty and accurate reporting; a sense which your reporter lacked. The people of San Diego are entitled to no less.

Sincerely yours,

Michael J. Madigan
Counsel, Senate Select Committee
on Intelligence
Washington, D.C.

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67- 78 - 2472X

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

FEB 6 1976

for

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

M.E.S.

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

G
Sensitivity

SUBJECT: SSC Request Dated February 4, 1976

Attached is a letter from the SSC dated February 4, 1976. Please arrange for an appropriate response.

DA

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FBI
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[REC-100] 62-116375-1358
FEB 11 1976

LEGAL COUNSEL
[Signature]
5-8

cc: Paul Daly

LEP



84 FEB 19 1976

FEB 6 1976

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

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

SUBJECT: SSC Request Dated February 4, 1976

Attached is a letter from the SSC dated February 4, 1976. Please arrange for an appropriate response.

FBI
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cc: Paul Daly

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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

February 4, 1976

The Honorable Edward H. Levi
Attorney General of the United States
United States Department of Justice
Washington, D. C.

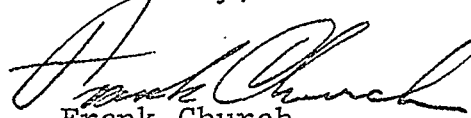
Dear Mr. Attorney General:

It has come to the attention of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities that on February 2, 1976 the Department of Justice turned over to plaintiffs in the Hampton v. City of Chicago case certain Justice Department and FBI documents.

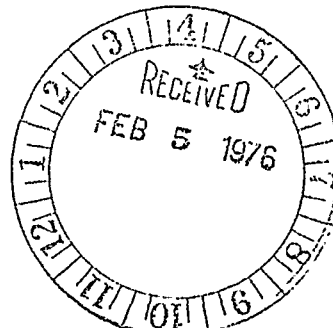
The Select Committee believes these documents may be relevant to its investigation of the FBI's role in the December 4, 1969 raid, and for this reason I now request that these documents be sent to the Select Committee.

Your promptest attention to this document request will be greatly appreciated.

Sincerely,


Frank Church
Chairman

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62-116595-1358



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

FEB 6 1976

for

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

Mika

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

Senate

SUBJECT: SSC Request Dated February 5, 1976

Attached is a letter from the SSC dated February 5, 1976. Please arrange for an appropriate response.

[Handwritten signature]

REC-100
62-116395-1357

FEB 11 1976

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LEGAL COUNSEL

5-8

cc: Paul Daly



FEB 6 1976

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

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

SUBJECT: SSC Request Dated February 5, 1976

Attached is a letter from the SSC dated February 5, 1976. Please arrange for a prompt and appropriate response.

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cc: Paul Daly

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 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

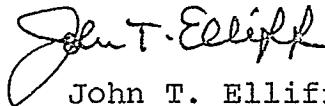
February 5, 1976

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:

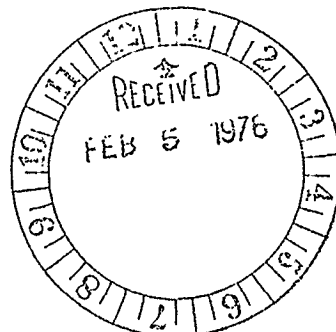
The Select Committee requests delivery in unexcised form of the materials pertaining to the authorization of and recommendation for electronic surveillance directed in the fall of 1969 at organizations engaged in preparations for the "March on Washington" to protest the Vietnam War. The Select Committee also desires that this material be provided in a form suitable for public release as part of the Committee's report.

Sincerely,



John T. Elliff
 Director
 Domestic Intelligence Task Force

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ENCLOSURE

62-116395-1357

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. R. Wannall *WRW/TJM*

FROM : W. O. Cregar *woc/RC*

SUBJECT: SENSTUDY 75

- 1 - Mr. J. B. Adams
 - 2 - Mr. J. A. Mintz
(1 - Mr. J. B. Hotis)
 - 1 - Mr. W. R. Wannall
 - 1 - Mr. R. L. Shackelford
- DATE: 2/2/76
- 1 - Mr. J. G. Deegan
 - 1 - Mr. S. S. Mignosa
 - 1 - Mr. F. J. Cassidy
 - 1 - Mr. W. O. Cregar
 - 1 - Mr. T. J. McNiff

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

- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection *RC*
- Intell. *RC*
- Laboratory _____
- Plan. & Eval. _____
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- Telephone Rm. _____
- Director Sec'y _____

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PURPOSE:

To advise of parameters of discussion established for appearance of Bureau representatives at Senate Select Committee (SSC) Executive Session concerning "Domestic Intelligence Investigations," which has been rescheduled from 2/2/76 to 10:00 a.m., 2/6/76.

DETAILS:

Reference is made to my memorandum dated 1/29/76 advising of the general areas of Bureau responsibility to be discussed at SSC Executive Session scheduled to be held 2/2/76 concerning "Domestic Intelligence Investigations."

On 1/30/76, between the hours 2:30 p.m. to 4:15 p.m. at FBI Headquarters, another meeting was held between Mark Gitenstein and Michael Epstein of the SSC Staff and Bureau representatives, including Assistant Director W. Raymond Wannall, Branch Chiefs Thomas W. Leavitt and Hunter E. Helgeson, Section Chiefs Joseph G. Deegan, Sebastian S. Mignosa, and Robert L. Shackelford, and Special Agents Andrew J. Duffin, Fred J. Cassidy and Thomas J. McNiff, all of the Intelligence Division, and Inspector John B. Hotis, Legal Counsel Division. The purpose of this meeting was to further define the parameters of discussion to be held at the forthcoming Executive Session.

Enclosure
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62-116395

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84 FEB 19 1976

Memorandum to Mr. W. R. Wannall
Re: Senstudy 75
62-116395

At the outset, Gitenstein furnished Bureau representatives with a typed agenda (attached) summarizing material to be discussed at the forthcoming Executive Session. In general, the attached agenda assumes that Congress would enact legislation closely paralleling the "Stone" language. That is, Bureau investigations would be authorized only when there is reason to believe that an individual has committed or is about to commit a specified crime. Exceptions would then be written into the legislation to permit Bureau investigations in such areas as organized crime, back^{ground} investigations and counterespionage/foreign counterintelligence investigations. Recognizing a possible need for investigations of a domestic intelligence nature, including threats of civil disorder, the agenda then requests Bureau input as to need for investigations falling within this category and an assessment as to how effective the Bureau can be in preventing acts of violence through use of intelligence techniques. Additional areas for Bureau input, according to this agenda, include (1) the necessity for investigation of groups calling for the illegal overthrow of the Government at some future date but where violence is not imminent and (2) the question of "preventive action" whereby the Bureau would be permitted to engage in deterrent-type actions against a group or individual where violence is imminent and arrest impractical. Gitenstein and Epstein both emphasized that the criteria for any exceptions, added to the basic "Stone" language, will be "Why can't the exception be handled by traditional law enforcement?"

Realizing the short deadline to properly prepare for the Executive Session, then scheduled for 2/2/76, an agreement was reached whereby the Executive Session would be rescheduled from 2/2/76 to 10:00 a.m., 2/6/76. It is

CONTINUED - OVER

Memorandum to Mr. W. R. Wannall
Re: Senstudy 75
62-116395

anticipated that Bureau representatives at the forthcoming Executive Session will include Assistant Director Wannall, Inspectors Helgeson and Hotis, and Section Chiefs Deegan, Mignosa and Shackelford, supra.

On the morning of 2/2/76, the above-named Bureau personnel, with the exception of Assistant Director Wannall, held a conference to prepare for the forthcoming Executive Session. It was agreed by all that the mandate for Bureau investigations in the domestic intelligence field, as proposed above by SSC Staff Members, was entirely too narrow and it was agreed that Bureau representatives at the hearing would recommend a legislative approach following, in general terms, the proposed Attorney General guidelines which would afford this Bureau a broader mandate in protecting Governmental interests. Assignments for areas of responsibility were made as follows: Inspector Hotis - Various proposed guidelines affecting Bureau operations, court decisions recognizing right of executive branch to protect Governmental interests and distinction between criminal and intelligence investigations; Section Chief Deegan - Effectiveness of FBI in preventing acts of violence as a result of information received from intelligence investigations and Bureau assessment of threats of civil disorder and techniques necessary to collect such information; Section Chief Mignosa - Extent of terrorist activity in this country citing specific instances of known activity, as well as necessity for sources to garner such information; Section Chief Shackelford - Necessity for investigation of groups which believe they will, at the propitious time, engage in violence for the forcible overthrow of Government, but believe for the immediate future violence is either not necessary or impractical.

CONTINUED - OVER

Memorandum to Mr. W. R. Wannall
Re: Senstudy 75
62-116395

A briefing of the above-named Bureau representatives is scheduled for 2:00 p.m., 2/5/76, to finalize this Bureau's presentation at 2/6/76 Executive Session.

ACTION:

Above submitted for information and record purposes.

TJM

~~WREW
JSA~~

~~JAM
JSA~~

~~JSA
JSA~~

MEMORANDUM

January 30, 1976

To: Designees
From: John Elliff and Mark Gitenstein

ALL INFORMATION CONTAINED
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DATE 11/30/00 BY SP2AMK/P

On Monday morning, February 2, FBI officials from the Internal Security Branch of the Domestic Intelligence Division will appear before the Committee in executive session. The primary purpose of their appearance is to discuss with the Committee the future role of the FBI in traditional domestic intelligence operations -- that is, intelligence investigations of American citizens who are not agents of foreign powers. The primary witnesses will include Raymond Wannall, Assistant Director for the Intelligence Division; Hunter Helgeson, Branch Chief for the Internal Security Branch; Joseph Deegan, Section Chief for Extremist Investigations (investigations of terrorists, Black Panthers, and the Klan); Robert Shackelford, Section Chief for Subversive Investigations (investigations of the Communist Party, the Weathermen, and other "radical groups"); and, finally, John Hotis, the FBI's representative to the Attorney General's guidelines drafting committee.

The primary question which should be discussed on Monday is the scope of domestic intelligence investigations

ENCLOSURE

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which the Congress should permit in any legislative charter it enacts. In what circumstances should the FBI be permitted to go beyond the standard which former Attorney General Harlan Fiske Stone imposed upon the Bureau in 1924 -- that the FBI only conduct traditional criminal investigations? For the purposes of Monday's discussion we might assume that the Congress were to enact the Stone standard via the following language:

The Attorney General may authorize officials of the Department of Justice to investigate violations of federal criminal law only where there are specific and articulable facts which, taken together with rational inferences from those facts, give rise to a reasonable suspicion that an individual has committed or is about to commit a specific violation of federal criminal law.

Now, obviously, Congress would also have to draft exceptions to that standard for organized crime investigations, narcotics investigations, background investigations, and FBI counterespionage/foreign counterintelligence investigations. The primary question for Monday's witnesses is -- what additional exceptions do they believe the Congress should consider? If so, how would they define each of these exceptions? What type of techniques would they authorize to be used in those circumstances? What threshold or predicate would they require for an investigation of activities defined in the exception?

In our executive sessions thus far, we have heard testimony from the General Accounting Office experts on domestic

intelligence, local law enforcement officials, and federal law enforcement officials, all of whom seem to agree that perhaps there should be an exception to this general rule for FBI assistance in the assessment by other federal officials of the threat of civil disorder and the necessity for federal troops. We have also heard from GAO and other experts that perhaps we should also be considering an exception for intelligence investigations of avowed terrorist groups like the Weathermen, or the Panthers.

In evaluating the necessity for this last exception, there are two basic questions which must be asked of these witnesses. First, what are the sources and extent of organized terrorist activity currently affecting the United States? Second, how effective can the FBI be in preventing specific acts of violence by these groups through the use of intelligence techniques?

On January 15 we wrote to the Bureau requesting materials on the FBI's assessment of the potential of terrorist violence in connection with this year's Bicentennial celebration. This material, which has not been delivered to the Committee, will be supplied at the briefing and should help the Committee understand how the Bureau assesses the threat of terrorist violence, whether that assessment is realistic, and, finally, whether that potential for violence is sufficiently serious to justify an exception to the so-called Stone standard.

On the second question, the FBI was requested on December 18 to provide examples of instances in which the Bureau has actually prevented violence through an intelligence investigation. As of the middle of this week, the Bureau had provided ten such examples with underlying documents. We are attempting to summarize at least five of these cases, which involve hundreds of documents, by Monday. The actual facts in these five cases will be read into the record and would serve as the basis for questioning the Bureau on whether intelligence techniques can actually prevent violence by terrorist groups and, secondly, how the wording of various formulations of the threshold for such investigations, e.g., in the Attorney General's guidelines, in the Bureau's revised Manual sections, or in a proposed legislative charter, would affect their ability to prevent violence.

Finally, there are two other areas that should be discussed on Monday. First, some of the witnesses on Monday, in particular Robert Shackelford, have expressed concern about whether the guidelines and proposals we are considering do not in effect eliminate so-called subversive investigations in that neither the Attorney General nor the Committee are considering authorizing Bureau intelligence investigations where the likelihood of violence is remote. For example, he contends that in most subversive investigations, that is of the Communist Party, the Socialist Workers Party, and other Marxist-

Leninist groups, the potential for violence is real but remote. In other words, these groups believe that when the time is ripe they will engage in violence for the forcible overthrow of the government, but that for the moment violence is not necessary. Therefore, he would contend that an additional exception is necessary for such investigations. First Amendment and other constitutional problems with such an exception are obvious.

The final area which should be discussed on Monday is the question of "preventive action". The Attorney General's draft guidelines in Part IV would authorize the FBI to engage in certain preventive action/COINTELPRO-type actions against intelligence targets. In essence, the Bureau would be permitted to take action against a group or individual, above and beyond arrest, where violence is imminent and arrest is impractical. The Bureau has provided us with examples of situations in which they feel they should be authorized to engage in preventive action. Those examples, which are included as Attachment A, should be discussed with the witnesses. It is interesting to note that some of these examples would not even be permitted under the Attorney General's guidelines.

We are also including, as Attachment B, a copy of the Attorney General's draft guidelines for your review and will have further materials, including summaries of the five cases where violence was prevented, available on Monday morning.

- 1 - Mr. Mintz - Enc.
- 1 - Mr. Moore - Enc.
- 1 - Mr. Malmfeldt - Enc.
- March 2, 1976
- 1 - Mr. Daly
- 1 - Mr. Hotis
- 1 - Mr. Taylor

REC-3

62-11-33-1354X

Honorable Warren G. Magnuson
 United States Senate
 Washington, D. C. 20510

ALL INFORMATION CONTAINED
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 DATE 11/30/00 BY SP2AMK

Dear Senator Magnuson:

Your letter of January 30, 1976, enclosing a copy of a letter dated November 29, 1975, from Mr. Ernst L. Gayden has been received. As you requested, I am returning Mr. Gayden's letter.

Mr. Gayden commented on a statement appearing in the November 26, 1975, issue of the Seattle Times newspaper quoting me as stating, "There might be some justification for firing or reprimanding Agents involved if they knew their acts were illegal!" You requested that I provide you with an explanation for this statement.

The article contains information reportedly gathered from testimony of representatives of the FBI before the United States Senate Select Committee on Intelligence Activities and an interview of me by a news media representative. This statement cited by Mr. Gayden pertains to the FBI's COINTELPRO and the investigation of Dr. Martin Luther King, Jr. As a representative of the FBI has testified previously and it is my position, there was no legal justification for harassing the late Dr. Martin Luther King, Jr.

With regard to the imposition of sanctions against personnel involved, it is my position that the ultimate responsibility for the correctness of these activities rested with the FBI executives who approved and directed them, none of whom are currently with the FBI. Since they are under review by the United States Department of Justice to determine if these activities constituted violations of law, it is not appropriate for me to make further comment at this time.

Sincerely yours,

Clarence M. Kelley

Clarence M. Kelley
 Director

Enclosure

NOTE: In order to respond to Senator Magnuson's request, it is necessary to obtain a copy of the news article from SAC Philip T. Basher of the Seattle FBI Office. External Affairs Division has no record of the interview referred to in the news article.

- Assoc. Dir. _____
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RTT/PVD:lad

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United States Senate

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January 30, 1976

The Honorable Clarence M. Kelley
 Director
 Federal Bureau of Investigation
 Washington, D.C.

Auth. file

Dear Mr. Kelley:

Sincerely

Enclosed is correspondence that I have received from my constituent, Mr. Ernst Gayden, who questions the justification and rationalization of your quote as published in the SEATTLE TIMES.

I would appreciate your providing me with an explanation of this statement as well as responding to Mr. Gayden's comments, along with a return of the enclosure.

Sincerely,

Warren Magnuson
 WARREN G. MAGNUSON, U.S.S.
 (WASHINGTON)
 WGM:mga

Enclosure

EXP. PROC.
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EX-101
 REG-3
 116377-1354X1
 FEB 2 1976

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CORRESPONDENCE

*1 - Bureau - Magnuson Legal Counsel for Mr. Kelley, 2/18/76
 RTT*

*ack let dated 3-2-76
 RTT / FUD: lsd*

