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OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

INTRODUCTORY REMARKS

BY

WILLIAM H. WEBSTER

DIRECTOR

FEDERAL BUREAU OF INVESTIGATION

BEFORE THE

HOUSE SELECT COMMITTEE ON ASSASSINATIONS

WASHINGTON, D. C.

DECEMBER 11, 1978

SEARCHED ____ INDEXED ____
SERIALIZED 266 FILED ____
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166-4496-186 FBI/DOJ

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First, the FBI has already cooperated with this Committee in making available personnel and material from our files. Since December of 1976, at a cost to date exceeding $800,000, we have produced approximately 700,000 pages of requested documents. As many as 75 persons have worked together searching, clearing and assembling this information. We remain ready to provide assistance.

Second, as a practical matter, there is little I could personally add in commenting on historical matters which preceded by ten years or more my appointment as Director.

I want, therefore, to look ahead. My comments will address three issues: first, our response to any future assassinations including our jurisdiction to investigate political assassinations generally; second, potential obstacles that might be encountered during related investigations; and third, arrangements which have been made to interact with other governmental agencies in conducting these investigations.

JURISDICTION

Let me take up jurisdiction, first.

After President Kennedy was assassinated in November of 1963, Director Hoover advised the Attorney General that there was a lack of Federal jurisdiction over offenses of this nature. Lee Harvey Oswald was, in fact, in the custody of a local law enforcement agency at the time of his death.

Today, owing to a number of subsequently passed statutes, we can assert jurisdiction over this kind of offense.

The Presidential Assassination Statute provides that the FBI shall investigate the assassination, kidnaping, assault, attempted killing or kidnaping, or conspiracies to kill or kidnap the President, the President-elect, the Vice President, the Vice President-elect--or if there is no Vice President, the officer next in order of succession to the Office of President of the United States--or any individual who is acting as President under the Constitution and laws of the United States.

Under this statute, when we assert jurisdiction, state and local jurisdiction is suspended. Their role, by statute, is limited to providing assistance to the FBI.

A similar statute provides FBI investigative jurisdiction over Congressional assassinations, kidnapings and assaults, attempted killings or kidnapings, and conspiracies

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to kill or kidnap. The same crimes committed against Members of Congress-elect are also covered.

Federal laws also prohibit the killing or kidnaping of foreign officials, official guests, or internationally protected persons. In addition, these laws make conspiracies to kill or kidnap unlawful.

We may assert jurisdiction under a variety of other statutes. The basic Federal criminal civil rights laws, for example, give us jurisdiction when federally secured rights are violated or when parties conspire to violate these rights. We investigated the Martin Luther King, Jr., assassination on the premise that his Federal right to travel had been denied.

Other kinds of violations occurring in a political assassination context could also give jurisdiction to investigate.

For instance, we would have jurisdiction over cases in which someone had transported interstate explosives with intent to injure or had bombed U. S. property or an institution or organization receiving Federal financial assistance. These situtations could coincidentally involve political assassinations.

Other pertinent statutes might include various sections of Crime on Government Reservations Statutes (involving murder, attempted murder and manslaughter, kidnaping, destruction or injury to buildings or property); the Racketeer Influenced Corrupt Practices Statute, if the assassination

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were committed in furtherance of a pattern of racketeering activity; the Election Law Statute if the assassination, for example, injured, intimidated, or interfered with a person campaigning as a candidate; and the Foreign Agents Registration, Federal Train Wreck, and Aircraft Piracy Statutes.

FBI RESPONSE

Assuming there is an assassination over which we have jurisdiction, how would the FBI respond? Let me preface my reply with two points.

First, as Director, I am responsible for all investigations conducted by the Bureau. I delegate authority for the handling of investigative matters to our Special Agents in Charge (SACs) through the Associate Director and appropriate Assistant Director.

The SAC carries out his responsibilities by directing his assistants and squad supervisors who, in turn, direct the efforts of the investigators.

It should be noted that assignment of responsibility does not abrogate or dilute responsibility; each superior must insure that his instructions are promptly and properly carried out.

Second, our response to any assassination would be of a magnitude commensurate to the impact of the specific crime on national or international society and to the complexity of the act. Thus, the aborted attempt of "Squeaky" Fromme to

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kill President Ford, a direct, personal attempt, which was solved immediately, would generate a different degree of response than a sophisticated, possibly conspiratorial, or successful crime.

Because I can't describe how we would react in every situation, let me first consider how we would respond in the most important and most traumatic--the assassination of the President.

If this occurs, the field commander would immediately implement our Major Case Operations Plan. The SAC, as field commander, would initiate a major case investigation under that plan. In addition, I would consider sending an Assistant Director or other ranking official to the scene to assume overall command of the case in the field.

The Major Case Operation Plan involving a Presidential assassination would include the following arrangements:

Following confirmed reports of the assassination, two command posts, one at headquarters and one in the field, would be established. Supervisory personnel from all affected divisions would man the headquarters command post. Here, all leads and investigative results would be coordinated. The field command post through a multiple communications capability would forward information developed by its investigative task force to headquarters.

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The Major Case Operation Plan can, of course, be utilized in other serious cases. In fact, our investigation of the assassination of U.S. Representative Leo J. Ryan of California gives a good illustration of how the major case plan works in actual practice.

We premised this investigation on violation of the Congressional Assassination Statute. A Deputy Assistant Director of the Criminal Investigative Division was designated to take charge of the investigation. Under his personal direction, the FBI Headquarters Command Post was activated. Oral and written reports were submitted to me daily on the progress of the investigation.

The FBI Headquarters Command Post was staffed by supervisory personnel who were responsible for various aspects of the investigation which were coordinated with other agencies.

The Command Post was further broken down in a manner that fixed responsibility for all investigation in Guyana and for investigation in various sections of the United States.

FBI personnel were physically located at the U.S. State Department Command Post as well as the Pentagon Command Post in Washington, D. C. The Deputy Assistant Director immediately established liaison with officials of the U.S. Department of Justice, U.S. Secret Service, Military Services,

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U.S. Marshals Service, and U.S. Department of Health, Education, and Welfare.

It was also necessary to establish three field Command Posts in the United States to adequately investigate the murder.

A Deputy Assistant Director of the Identification Division was placed in charge of the FBI's "Disaster Squad" at Dover Air Force Base, Dover, Delaware. The FBI's "Disaster Squad" along with representatives of the Department of Defense and the U.S. Department of State had the responsibility to identify the dead returned from Jonestown, Guyana.

A Command Post was established at Charleston, South Carolina, to handle the interviews of all survivors expected to return there from Guyana. The FBI's Command Post was under the personal command of a Special Agent in Charge. There were also representatives from local law enforcement; Health, Education, and Welfare; Secret Service; Marshals Service; State Department; Defense Department; as well as U.S. Attorneys from Columbia, South Carolina and San Francisco, California.

A third Command Post was established in San Francisco under the personal command of the Special Agent in Charge. All three field Command Posts were under the direct control and supervision of a Deputy Assistant Director of the Criminal Investigative Division.

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Again, this is one example. Depending on the seriousness and complexity of the case, our response could vary. But whatever the extent of our investigation, it will be as thorough and well-ordered as we are capable of making it.

OBSTACLES

We recognize that there may be obstacles to the speedy completion of an investigation. Some may be foreseen, based on past experience. These include the immediate performance of a thorough and completely reliable autopsy; the preservation and accessibility of material which may substantially assist in resolving doubtful aspects of investigation, such as media or spectator photos or recordings; and accessibility of financial, communications, or other records.

AUTOPSY/MEDICAL INVESTIGATION

A memorandum of agreement between the FBI and the Armed Forces Institute of Pathology (AFIP) requires the AFIP to provide medical investigative support to the FBI on a cost-reimbursable basis upon request in the event of assassination of the President, Vice President, a Member of Congress, and certain other designated individuals described in the Presidential and Congressional Assassination Statutes.

The memorandum provides that AFIP will conduct a forensic autopsy for the FBI upon the President's body; further, that AFIP will dispatch designated personnel to the

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scene of death to obtain relevant medical information and will designate a staff of board-certified forensic pathologists and allied science personnel to fulfill its responsibilities under the agreement. The AFIP would also provide us with a final report of the medical investigation.

It will be our responsibility to secure release of the body from local custody. In addition, our personnel will attend the medical investigation to receive and retain custody of physical evidence obtained.

The Presidential Assassination Statute clearly indicates that the Federal Government may assert exclusive jurisdiction over the body of an assassinated President.

MEDIA/PRIVATE PHOTOGRAPHIC OR TAPE-RECORDED EVIDENCE

The value to an investigation of all media and private photographic or recording results taken at the assassination scene may be considerable.

Under current law, if the materials are not voluntarily delivered, they may be obtained by a grand jury subpoena or with a search warrant.

With respect to media-held materials, the Supreme Court ruled recently in Zurcher v. Stanford Daily that these may be obtained with a warrant, even in a place owned or possessed by someone not reasonably suspected of criminal involvement.

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The Bureau places a Stanford Daily-type search in a special category. It is not permitted except with my approval and then only in extraordinary circumstances--as presumably would be the case if a President were assassinated.

FINANCIAL/COMMUNICATIONS RECORDS

Traditionally, the FBI has obtained financial transaction records through a judicial search warrant, grand jury subpoena, or by consent of the holder.

Acquiring records, today, however, is more difficult than in the past. This is a result of legislation rather than court decisions. Indeed, decisions have not recognized Fourth and Fifth Amendment rights asserted by "owners" of documents (customers) held by third parties (banks, for example).

This legislation has established requirements concerning the kinds of information which may be obtained and has set up procedures to be complied with before materials can be obtained. Examples include the Tax Reform Act of 1976, the Fair Credit Reporting Act, and the very recent Right to Financial Privacy Act.

The latter will significantly regulate the FBI's ability to gain access to records in possession of third party financial institutions and curtail the rapid access to such records. The Act effectively ends informal access to financial records subject to certain exceptions. Under it, an individual has a right both to be notified when the Government is seeking his financial records and to challenge

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the Government's access to his records. These rights would not apply when documents were sought with a grand jury's subpoena.

We will monitor this new legislation to determine its impact upon our investigative responsibilities.

In effect, today, should financial, tax, or credit records be sought after a Presidential assassination, the FBI might experience considerably more difficulty acquiring them than it did in the past.

Communications records would also be important to an investigation. Although access to these is not currently controlled by statute, we find it increasingly difficult to obtain them informally.

INFORMATION EXCHANGE AND ASSISTANCE FROM OTHER AGENCIES

The Presidential Assassination Statute, specifically instructs that the FBI shall investigate violations and that "Assistance may be requested from any Federal, state or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding." The wording recognizes the statutory prohibition against the general use of the Army or Navy as a "posse comitatus."

Executive Order 12036 provides a vehicle for the FBI to request the Attorney General to task other intelligence gathering agencies for specific information regarding violations

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of criminal law. This authority could be used if the President or other political official protected by statute was assassinated.

In the event of a calamitous event, as a Presidential assassination, the FBI would relay pertinent information to all official U. S. Government agencies concerned with developments, including the White House, the U. S. Department of State, the Department of Justice, the National Military Command Center and the U. S. Secret Service.

We are currently conducting a periodic review of a formal agreement between the FBI and Secret Service which defines areas of activity regarding the Secret Service's protective responsibilities and the investigative responsibilities of the FBI and establishes mutual communication and cooperation in ordinary and extraordinary situations.

Through established liaison at Headquarters, the FBI is in regular communication with many agencies of Government in Washington having normal business with us, including all mentioned above. Means are available to immediately contact any U. S. agency which might afford assistance or information.

Our field offices maintain regular contact with criminal justice agencies at Federal, state and local levels within their territories and can promptly contact any who might assist in an investigation.

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Through Legal Attaches, FBI Agents attached to the U. S. Embassies in several foreign countries, liaison is maintained with many friendly foreign police agencies to resolve mutual problems of international criminality. The cooperative assistance of those foreign police agencies could be solicited for specific investigation outside the jurisdiction of the United States, subject, of course, to any State Department concerns arising from the specific situation.

The specific situation which might arise would govern the degree of assistance and information which might be sought. Within the United States our jurisdiction appears ample. Within legal bounds, the FBI will not hesitate to solicit cooperation, assistance or information from whatever source may be required.

CONCLUSION

I have tried to give you an overview of our jurisdiction to investigate political assassinations, of the way we would respond in the most serious of these situations, of the obstacles we might face in proceeding with an investigation, and of the extent of cooperation we might expect from other agencies in conducting such an investigation.

Obviously, there are many areas I have not touched on. I would be happy to answer whatever questions you may have about these or about specific issues that have come to mind concerning the materials I've just presented.

Thank you.

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The memorandum provides that AFIP will conduct a forensic autopsy for the FBI upon the President's body; further, that AFIP will dispatch designated personnel to the

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