FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
DEC 30 1967

WESTERN UNION

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

BIA012 935A EST DEC 30 67 (33)SYA048

SSA018 SY HEA [redacted] HEMPSTEAD NY 30

MR J EDGAR HOOVER, DEPT OF DEFENCE

FEDERAL BUREAU OF INVESTIGATION WASHT DC

SIR: THE LIBERAL STAND TAKEN BY THE SUPREME COURT CONFIRMS THE FACT THAT WE NEED MORE MEN LIKE YOU TO KEEP OUR GOVERNMENT BALANCED. YOU BETTER HAVE YOUR PEOPLE READY TO COPE WITH THESE JERKS WHO BELIEVE A COMMUNIST IS JUST A POLITICAL VIEW AND THEREFORE N O RISK. THANKS

[redacted]

(10)

REC-69 62-27585-244

JAN 4 1968

53 JAN 10 1968

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 12-18-67

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Page E17313. Congressman Selden, (D) Alabama, commented on the Supreme Court's decision protecting a Communist Party member's right to hold a job in a National defense plant. Mr. Selden stated "Once again, a majority of the U.S. Supreme Court has demonstrated a frightening blind spot with regard to the dangers posed to our country's security and free institutions by members of the Communist Party."

62-27585-

JAN 9 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 12-18-67 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

6 JAN 16 1968

Original filed in: 66-1731 3218

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: December 29, 1967

FROM : J. H. Gale

SUBJECT: PROPOSED DISSEMINATION OF "CRIMINAL INTELLIGENCE DIGEST" TO THE SUPREME COURT

The Legal Research Unit of the Training Division has suggested that the attached copies of the "Criminal Intelligence Digest," which were prepared by the Special Investigative Division, might be of some assistance to ranking judicial figures charged with sitting in judgment over gambling violations on the state as well as the Federal levels. The "Digests" referred to contain an exhaustive, two-part analysis of evasive tactics and devices employed by bookmakers and policy operators, showing the complexity of gambling investigations and the numerous obstacles (both physical and legal) which law enforcement officers must overcome before prosecution can be initiated.

The Legal Research Unit is of the opinion that one of the greatest defects of the judiciary at this time is that the judges at the top levels apparently have no real comprehension of the intricate and infinite practical problems confronting these officers. It is entirely possible that the judiciary would welcome this technical background to enable them to listen to the arguments of opposing counsel with a fuller understanding than they now possess and to assist them in establishing prosecutive policy based upon cases appearing before them.

ACTION:

REC 25 62-27585-24

It is recommended that a Bureau representative determine from Chief Justice Warren of the Supreme Court whether he thinks such studies would be of assistance to the Supreme Court and whether he might be interested in receiving the attached "Digests" as well as future editions of a related nature.

JAN 4 1968

2-ENCLOSURE
Enc.

1 - Mr. DeLoach
1 - Mr. Mohr
1 - Mr. Bishop
1 - Mr. Casper
1 - [redacted]

1 - Mr. Gale
1 - [redacted]
1 - [redacted]

[redacted]

6 JAN 12 1968

XXXXXX
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FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

20 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒ Deleted under exemption(s) b2, b7E with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

☒ The following number is to be used for reference regarding these pages:
62 - 97585 - 245 enclosures

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X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
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4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 12-20-61

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Original filed in: 66-1731-3220

Page A8367. Congressman Utt, (R) California, placed in the Record an article from the San Diego Union of December 12, 1961, entitled "National Destruction Legalized--High Court Again Aids Enemy." Mr. Utt pointed out that the article is most accurate in its description of the effect of the Supreme Court's decision regarding Communists in defense plants. He went on to state "The Court has truly legalized national destruction, completely ignoring the allegiance sworn by Communists to foreign powers. It is certainly time for Congress to act to restore confidence in our national security, and this should be one of the very first actions at the beginning of the new session in January."

REC- 19

62-27585-2 Hc

NOT RECORDED
186 JAN 10 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 12-18-61 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of [illegible] memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

66 JAN 15 1968

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: Jan. 16, 1968

FROM : N. P. Callahan

SUBJECT: The Congressional Record

OS. 2646

[illegible] Congressman Saylor, (R) Pennsylvania, [illegible] H. R. [illegible], to amend title 5, United States Code, to [illegible] the mandatory separation from Government service of all [illegible] and employees thereof at the age of 70 years. A copy of the bill [illegible]. Mr. Saylor stated "My bill in no way reflects upon the [illegible] ability of persons who reach the age of 70 and are still [illegible] service, although no doubt there is ample evidence that the [illegible] most jobs are too exhausting for the average individual in [illegible] age group. * * * The fact remains, however, that there is some point [illegible] person should be required to retire from the Federal service. [illegible], if for no other reason, many younger employees qualified to step [illegible] positions and [illegible] go to seed without ever having the opportunity to make full use of their potential." Mr. Saylor also spoke [illegible] recent decisions of the Supreme Court and stated "By striking [illegible] of the Subversive Activities Control Act the Supreme Court [illegible] demonstrated why Congress should act quickly on House Joint Resolution 418 to authorize the legislature, by [illegible] vote of both Houses, [illegible] Supreme Court decisions." He advised that "Last August 25 the [illegible], Pa., Spirit reprinted an editorial from the Catholic Bulletin [illegible] should be included in the Record as further evidence in the dossier [illegible] the need for House Joint Resolution 418." The editorial entitled "[illegible] Court and Crime" is set forth in the Record. The editorial stated "[illegible] crime statistics gathered by the FBI mean anything--which they do--it is [illegible] violence has settled in America, the land of plenty, and the [illegible] Court's standards on law enforcement must share a great deal of the blame.

H. R.

90th Congress 1968

REC 7 62-27585-247

NOT RECORDED

47 JAN 22 1968

Original filed in: 66-[illegible]

In the original of a memorandum captioned and dated as above, the Congressional Record for Jan. 15, 1968 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

53 JAN 29 1968

Best Copy Available

4-572 (Rev. 7-16-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 1-19-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Page S100. Senator Thurmond, (R) South Carolina, requested to have printed in the Record an editorial from the Columbia (South Carolina) State of January 2 entitled "Courting Disaster." The editorial deals with the recent Supreme Court decision allowing Communists to work in defense facilities. Mr. Thurmond advised that the article presents an intelligent argument "indicating the incredibile lack of judgment on the part of the Court in making such a decision."

62-27585-

NOT RECORDED
128 MAR 13 1968.

In the original of a memorandum captioned and dated as above, the Congressional Record for 1-18-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

51 MAR 21 1968

Original filed in:

4-572 (Rev. 7-16-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO: The Director

DATE: 1-23-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Supreme Court

Pages H214-H216. Congressman Rarick, (D) Louisiana, stated "the parade of untouchables within our Government continues to be named with dates, times, and places by the Herald of Freedom, of New Jersey." He requested that part IV of the series "Untouchables" be placed in the Record. This article sets forth information regarding the background and Communist association of various persons in Government, past and present. The article refers to Alger Hiss and states "Alger Hiss was at Yalta with President Roosevelt as his adviser. Yet the fact that Hiss was a Soviet agent was made known to his superiors seven years before he was finally exposed by a committee of Congress. This is the only way Communists are eliminated from government service, it seems . . . exposure by a Congressional committee. As all our bulwarks against Communism and subversion are falling before the onslaught of the Warren Court which has handed down decision after decision in favor of Communists, it is time the Congress of the United States takes a look at the 'Untouchables.'"

62-27585-

NOT RECORDED
47 FEB 9 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 1-22-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

57 FEB 14 1968

Original filed in: 62-27585-Pers. Sec.

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 1/24/68

FROM : N. P. Callahan

SUBJECT: *The Congressional Record*

Page H262. Congressman Gurney, (R) Florida, introduced a joint resolution (H. J. Res. 998) proposing an amendment to the Constitution of the United States to authorize Congress, by two-thirds vote of both Houses, to override decisions of the Supreme Court. A copy of this joint resolution will be obtained. Mr. Gurney stated "No one denies that the individual and the accused have individual rights which must be guarded from encroachment. Yet, so too must be the rights of the whole society. It is in the consideration of the interests of that group, in which each of us has as vital a stake, that the Supreme Court is falling short."

62-27585-

NOT RECORDED
128 FEB 5 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 1/23/68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

54 FEB 8 1968 391

Original filed in: 62-117126-22

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 2/23/68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Pages S1604-S1605. Senator Dodd, (D) Connecticut, spoke in support of legislation to strengthen the internal security of the United States. He stated "The fact is that the Internal Security Act now on the books has been seriously vitiated by a whole series of Supreme Court decisions; and these decisions have also served to vitiate State security laws which were intended to operate in support of the Internal Security Act." He made reference to several of the decisions issued by the Supreme Court and stated "The Communists scored one of their most astounding legal victories, however, when the Supreme Court, in the so-called Robel case, which was decided last December, held unconstitutio an act of Congress designed to bar Communists from employment in our defense facilities. - - - - In the face of repeated findings by congressional committees, by the FBI and by the Department of Justice that the Communist Party is a foreig dominated conspiratorial organization committed to the subversion of our Government, the Supreme Court persists in arguing that the mere fact of membe ship in the Communist Party does not necessarily involve knowing participation in the Communist conspiracy."

62-21538-

NOT RECORDED

141 MAR 18 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 2/23/68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

57 MAR 25 1968

5-572 (Rev. 7-16-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 2/27/68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Page E1132. Congressman Taylor, (D) North Carolina, spoke concerning crime in the streets and the growing contempt for law and order. He stated "While recommended anticrime legislation receives needed attention in the 90th Congress, action should be taken to overrule the Supreme Court decisions which have placed handcuffs on the officers rather than on the criminals and to establish a retirement age and strengthen the personnel of the Supreme Court. - - - - Today I introduced four bills designed to reduce the powers and strengthen the personnel of the U. S. Supreme Court." Copies of this legislation, H. R. 15555, H. R. 15556, H. J. Res. 1126 and H. J. Res. 1127, will be obtained.

Original filed in: 62-27585-22 MM

REC-71 62-27585-24
NOT RECORDED
191 MAR 7 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 2/26/68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

20 MAR 1 1968

4-572 (Rev. 7-18-
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 3-20-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Supreme Court

Pages H2070-H2073. Congressman Wiggins, (R) California commented on attacks against the Supreme Court pointing out that "We have heard remarks highly critical of the Court made by Members of this House; we read of law enforcement officials blaming their troubles upon the Court; and, saddest of all, we often hear attorneys joining in the attacks and repeating totally false and emotional statements that the Supreme Court is 'tying the hands of the police' or is 'coddling criminals' at the expense of 'decent members of society.' Members of the bar particularly have a positive duty to defend the Supreme Court against these unfortunate attacks. It is possible to question the wisdom of a particular decision without challenging the integrity of the Court as an institution." He included an address delivered by Judge Donald P. Lay of the U. S. Court of Appeals before the International Academy of Trial Lawyers. Mr. Wiggins stated "It is hoped that all Members will study this speech and will accept the challenge of Judge Lay to renew publicly their faith." Judge Lay pointed out that 'A few voices in the dark shamefully acclaim that crime is caused or that criminal convictions are decreased because of the opinions of the Supreme Court of the United States. - - - - I submit that any such person must disagree with Ramsey Clark, the Attorney General of the United States and J. Edgar Hoover, Director of the Federal Bureau of Investigation. Mr. Hoover's statement made in 1955 was cited by Chief Justice Warren in Miranda as to the practice the F.B.I. follows today in criminal investigations. Mr. Hoover stated: 'Law enforcement, however, in defeating the criminal, must maintain inviolate the historic liberties of the individual. - - - -.'"

62-275-85-249
NOT RECORDED
46 MAR 28 1968

EX-110
REC 8

In the original of a memorandum captioned and dated as above, the Congressional Record for 3-19-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

62 APR 4 1968

[redacted]
Richardson, Texas 75080
March 23, 1968

66, 67c

Mr. J. Edgar Hoover
FBI
Washington, D. C.

Dear Sir:

I am very much interested in the effects which the Supreme Court decisions have had on criminal investigation procedures and on other court cases. Could you give me some statistics telling to what extent criminals have been set free because of minor technicalities about search and seizure, unreasonable delay, etc. I know that many people are being released because of this, but I have not been able to find out exactly how many. I would appreciate it if you have these statistics at your command.

Also, have the Supreme Court decisions handicapped the FBI's work? We are told that the police in general are confused over what they can and cannot do; however, the people who propagate this idea fail to tell us what areas they are unsure of. This information would also be most helpful.

A third question - do you feel that uniformity as far as criminal investigation procedures would be most advantageous - and why? Or do you feel that the matter should be left up to the states?

Any material you could send me on these three points would be most helpful. Thank you very much.

Sincerely yours,

[redacted]

REC-114

62-375[redacted]-5

66, 67c

12 APR 3 1968

[redacted]

CORRESPON

April 1, 1968

REC-114 62-275-85-250

[redacted] b6, b7C

Richardson, Texas 75080

Dear [redacted]

Your letter of March 23rd has been received.

With respect to your inquiries, the FBI has not conducted any statistical studies relating to the effects of Supreme Court decisions on criminal prosecutions; therefore, I am unable to furnish you any data along these lines.

Insofar as your question concerning uniform criminal investigative procedures is concerned, legislative action would be required to institute such a program and I do not, as a matter of policy, inject the FBI or myself into matters relating to legislation. Within the Department of Justice, it is the function of the Attorney General to determine the desirability of legislation, and you may wish to contact him in connection with this.

I am sorry I am unable to be of help to you in this instance; however, you may be sure I appreciate the interest which prompted you to contact me.

MAILED 12
APR 1 1968
COMM-FBI

Sincerely yours,

J. Edgar Hoover

Tolson
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Tele. Room
Holmes
Gandy

NOTE: Bufiles contain no record of [redacted] b6, b7C

[redacted] (3)

55 APR 1 1968

MAIL ROOM ☐ TELETYPE UNIT ☐

[redacted] b6, b7C

April 16,1968

J.Edgar Hoover,Director
Federal Bureau of Investigation
Washington,D.C., 20025

Dear Brother Hoover:

I am sending the enclosed clipping from the local newspaper to you and in addition I have written to both the California Senators and my local Congressman protesting,among other things,these decisions of our co-called Supreme Court.

As a former Industrial Security Officer,these actions of the Court are becoming routine and the billboards on California highways "IMPEACH EARL WARREN" seem to be telling the truth. As a Past Grand Master in California I also thinks he is going far afield from the teachings of Masonry and it is surprising that someone has not preferred charges,but I suppose he is staying within our law.

I surely hope you can muster enough support in Congress to over rule this type of decision of the Court and get our Country back on the track and thinking the FREE way and not the RED way.

Sincerely and fraternally,

[redacted]

A.F.E.Irwin Lodge No.645 F & A M

ENCLOSURE

[redacted]

San Pedro,Calif., 90731

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

62-27585

EXPEDITE

REC-23 62-27585-25

14 APR 18 1968

Which door next?

THERE IS APPARENTLY no end to the doors the United States supreme court is prepared to open for Communists. Now they even can be given access to sensitive merchant marine.

Through recent decisions of the court it is now possible for Communists to be in defense plants, where they must be permitted to work. They also may be allowed to poison the minds of our children because they are no longer barred from teaching.

Now Communists may have free access to U.S. vessels even if the Coast Guard objects. The decision handed down recently that the Coast Guard cannot screen a merchant seaman out from employment on a particular vessel on [illegible] his Communist party membership [illegible] another open door to [illegible]

62-27585-251

ENCLOSURE

April 23, 1968

EX 101

REC-23 62-27585-251

[redacted] 66 67C

San Pedro, California 90731

Dear [redacted]

Your letter of April 16th, with enclosure, has been received and I appreciate the interest which prompted you to write and furnish me your comments on the matter you mentioned.

Sincerely yours,

J. Edgar Hoover

MAILED 12
APR 23 1968
COMM-FBI

NOTE: Bufiles contain no record identifiable with correspondent. His enclosure is a newspaper clipping from an unidentifiable newspaper concerning the recent Supreme Court decision regarding the Communist Party.

[redacted] (3) 66 67C

Tolson
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Tele. Room
Holmes
Gandy

66 APR 30 1968

MAIL ROOM TELETYPE UNIT

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 4-4-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Pages H2565-H2566. Congressman Ashbrook, (R) Ohio, pointed out that "for many years the National Americanism Commission of the American Legion has published a monthly newsletter, the American Legion Firing Line, which has brought to the attention of Legionnaires and other interested readers matters of interest concerning current events and national security. In its March issue, for instance, the newsletter refers to the danger stemming from U. S. Supreme Court decisions concerning various aspects of the domestic Communist threat. - - - - In the same issue, the Firing Line comes to grips with an adversary of long standing, the American Civil Liberties Union. The issue of contention is the legislation which seeks to discourage and punish the desecration of the American flag, legislation which the ALCU opposed." Mr. Ashbrook included the two above-mentioned articles with his remarks.

62-27585-
NOT RECORDED
176 APR 17 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 4-3-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that additional copies of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

51 APR 22 1968

Original filed in: 62-117126-376

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 4-10-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Pages E2860-E2862. Congressman Long, (D) Louisiana, placed in the Record an article from the July, 1967, issue of Reader's Digest entitled "Is The Supreme Court Really Supreme?" written by Eugene H. Methvin. Mr. Long advised that the article "points out some of the more glaring excesses of the U. S. Supreme Court and calls on the Congress to act to curb the growing power of the Federal courts." The article states "There is mounting evidence that the Court's massive federalization of criminal justice has grievously crippled law enforcement. FBI statistics show that, since the 1961 ruling, the rate at which police are solving reported crimes--a rate which had held steady for years--has dropped by almost ten percent."

62-27585-
NOT RECORDED
167 APR 17 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 4-10-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

Original filed in:

4-572 (Rev. 7-16-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 5-28-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Supreme Court

Pages H4306-H4307. Congressman Gathings, (D) Arkansas, stated "the American people need protection from some of the decisions of the U. S. Supreme Court which have turned confessed criminals loose on an unsuspecting public. These most objectionable decisions in the interest of protecting 'civil liberties' of the individual have been mounting in recent years." He cited several of the decisions. He also commented on the passage by the Senate of the Safe Streets and Crime Control Act containing a provision which would have the effect of changing some of these far reaching and unconscionable rulings." Mr. Gathings went on to state "The membership of the House should have a vote on the changes that the other body made in the crime bill, regardless of how such a vote may be presented—either by resolution or motion to take from the Speaker's table the bill and agree to the Senate amendments, or by motion to instruct the conferees to accept the amendments having to do with the Supreme Court decisions."

Page E4674. Congressman Gathings, (D) Arkansas, inserted in the Record an article written by David Lawrence entitled "'Good Behavior' of Judges—Who Defines It?" Mr. Gathings advised that this article offers plausible suggestions—that members of the Supreme Court be named for a period of years and that the Senate maintain "continuing jurisdiction" over the members. Mr. Lawrence stated "It was never intended by the Founding Fathers that the American people should be governed by five men, sitting as a majority of the Supreme Court, who could by judicial order frustrate the FBI, release confessed rapists, - - - - ."

REC 16 62-27585-2512

NOT RECORDED

46 JUN 6 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 5-27-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that a photostatic copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

59 JUN 11 1968

343

Original filed in: 27-27

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

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Sullivan
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Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Bishop

DATE: 6-3-68

FROM : M. A. Jones

SUBJECT: SENATOR JOHN L. McCLELLAN
(D-ARKANSAS)
TELEVISION PROGRAM
OPINION WASHINGTON
JUNE 2, 1968

Captioned individual was the guest on yesterday's Opinion Washington which was moderated by Mike Buchanan and the Senator was questioned by John Goldsmith, UPI reporter. Senator McClellan discussed the Safe Streets and Crime Bill which he successfully steered through the Senate. Goldsmith covered the Crime Bill in the Senate.

Senator McClellan feels that the Crime Bill, if passed by the House where it is presently waiting action, will help to restore law and order in this country. He discussed the main features of the Bill including the section dealing with wiretapping. In giving the background of the Bill and the situation which brought it about, he stated that the Miranda Decision and other cases before the Supreme Court have contributed to the increase in crime as proved by statistics in certain cities where those decisions have been studied. The Senator also produced a chart to which he referred showing the increase in crime during the period 1944-1967. The dates of the Mallory, Escobedo, and Miranda Decisions have been noted on the chart to show how serious crimes have increased since those decisions were rendered. (This chart was prepared for Senator McClellan by the Bureau, a copy of which is attached.)

62-117525-
NOT RECORDED
14 JUN 10 1968

Senator McClellan attacked the Miranda Decision and stated that the Supreme Court by this decision has, in effect, changed the Constitution and the upward spiraling of crime has been due to the five justices who ruled in favor of that decision.

Enclosure

1 - Mr. DeLoach
1 - [redacted]
(6)

22 JUN 7 1968
CRIME RESEARCH

(CONTINUED - OVER)

55 JUN 14 1968

M. A. Jones to Bishop Memo
RE: SENATOR JOHN L. McCLELLAN

With respect to possible criticism of the Bill as not recognizing some of the alleged problems of crime, Senator McClellan disclaimed the idea that poverty, unemployment and other social factors are entirely responsible for the increase in crime. He stated that there is less poverty in this country now than ever before but poverty does not justify crime. He stated that the breakdown in moral standards, civil disobedience and permissiveness feeds lawlessness in this country. He feels that the recently passed Safe Streets and Crime Bill is a beginning in rectifying some of the judicial abuses which have led to our national increase in crime.

RECOMMENDATION:

For information.

4-572 (Rev. 7-18-63
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 6-13-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Supreme Court

Page E5316. Congressman Ashbrook, (R) Ohio, extended his remarks concerning certain decisions of the Supreme Court in the area of internal security pointing out that those concerned with this matter are fully aware that the Courts judgments in the past have been a severe handicap in the administration of this program." Mr. Ashbrook went on to state in the area of travel to Communist countries, the Court has also made its presence felt. Here again national security interests have been made subsidiary to other considerations. He included a letter from the State Department concerning the travel of Cyrus Eaton to Cuba.

EX 106

REC-15 62-27585-253

NOT RECORDED

46 JUN 18 1968

In the original of a memorandum captioned and dated as above, the Congressional Record for 6-12-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

7134

20 JUN 26 1968

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 7-18-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Pages 22748-22749. Senator Morse (D) Oregon, urged prompt Senate action on the two nominees for the Supreme Court (Justice Fortas and Judge Thornberry). He included in the Record the text of a telegram signed by 450 deans and professors of the "finest law schools in the Nation," recommending that Senate approve these two nominations. He also included a letter from the "Liberty Lobby" opposing the confirmation of Abe Fortas as Chief Justice.

Pages 22771-22780. Senator Pastore, (D) Rhode Island, indicated the Senate should proceed without unnecessary delay in the matter of Presidential appointments to the Supreme Court and included in the Record numerous newspaper articles relating to these appointments.

62-27585-
NOT RECORDED
JUL 24 1968

Original filed in: 66-1731-2242

In the original of this memorandum captioned and dated as above, the Congressional Record for 7-17-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

56 AUG 5 1968

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 8-2-68

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Pages S9932-S9938. Senator Pastore, (D) Rhode Island, spoke concerning several bills he introduced (S. 3958, S. 3959, S. 3960, and S. 3961) to amend enforcement provisions of the Atomic Energy Act of 1954. The text of the bills and statements thereon are set forth in the Record. Mr. Pastore advised that a major purpose of one of the bills (S. 3958) is to "correct shortcomings in chapter 18 brought about by the U. S. Supreme Court's recent decision in United States v. Jackson, 36 L. W. 4277, April 8, 1968. It was there held that the death penalty provision of the Federal Kidnapping Act is unconstitutional because in permitting imposition of the death penalty only upon defendants who assert their right to be tried by a jury, it discourages assertion of, and thereby imposes an impermissible burden upon the exercise of, a constitutional right. - - - - These penalty provisions of the Atomic Energy Act and the death penalty provision of the Federal Kidnapping Act operate in the same manner; therefore, the effect of the Jackson decision on the former would appear to be similar to its effect on the latter. Indeed, in certain respects the decision has more far-reaching effects on the Atomic Energy Act inasmuch as both the life imprisonment penalty as well as the death penalty provided for therein are contingent upon a jury recommendation, whereas only the death penalty provision of the Federal Kidnapping Act was affected by the Jackson decision.

62- 27585

62-27585-
NOT RECORDED
176 AUG 12 1968

Original filed in: 66-1731-3251

In the original of a memorandum captioned and dated as above, the Congressional Record for 8-1-68 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of copies of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

51 AUG 9 1968

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 1-9-69

FROM : N. P. Callahan

SUBJECT: The Congressional Record

MJ

Pages E130-E131. Congressman Abbitt, (D) Virginia, advised that he introduced an amendment to the Constitution requiring that Justices of the Supreme Court be confirmed by the Senate every 10 years and establishing a mandatory retirement of Justices at the age of 70. "I am convinced that no problem in America is more evident to the general public today than the need for some restrictions on the present power of the Supreme Court. - - - - The wave of decisions by the Court in the past decade has greatly weakened the power of law-enforcement authorities and increased the problem of crime throughout the United States. - - - - We have always had a criminal element but heretofore the function of the Government has been to curb the activities of criminals and to protect the law-abiding citizen. No longer is this true. The Federal Bureau of Investigation reports that there were increases in all categories of major crimes during the past year. - - - - Certainly it is irresponsible when those who are elected or appointed to protect the public interest refuse to do that which protects the public as a whole, but rather succumb to the idea that criminals need to be pampered and protected."

62-27575-

NOT RECORDED
87 JAN 16 1969

In the original of a memorandum captioned and dated as above, the Congressional Record for 1-2-69 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

ORIGINAL FILED IN

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: 1-29-69

FROM : N. P. Callahan

SUBJECT: The Congressional Record

Supreme Court

Pages E550-E552. Congressman Abbitt, (D) Virginia, stated since last fall when I proposed a constitutional amendment to limit the tenure of Supreme Court Judges, I have received many communications in support of such a proposal. I have been gratified with the widespread support which my resolution has brought forth from all parts of the country. - - - - It has recently been brought to my attention that a very fine address was delivered several years ago by Mr. Lester I. Bowman, attorney at law, Petersburg, Va., who made some observations which I feel are worthy of the attention of Members of the House. Mr. Bowman is recognized throughout Virginia as an avid student of law and a constitutional authority. A former FBI agent, he has served as a member of the Petersburg City Council for a number of years and has been active in civic and community affairs." The address entitled "Did the Court Interpret or Amend?" is set forth in the Record. (Lester I. Bowman entered on duty in the Bureau in a clerical capacity on January 28, 1932, was appointed as an Agent on March 21, 1932, and resigned on June 18, 1940. His services were satisfactory.)

REC-64 62-27585-254

NOT RECORDED
170 FEB 6 1969

Original filed in:

In the original of a memorandum captioned and dated as above, the Congressional Record for was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

FEB 7 1969

March 6, 1969
Olathe, Kansas

Personal attention to:

THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES
Washington, D. C.

COPY

Gentlemen:

Here is an article from the Kansas City Times which shows the results of some of your past decisions. It is my strong feeling that you are concentrating on the rights of insignificant criminals and deserting the rights and best welfare of your nation.

I hope that you will reassess your thinking, use more common sense and less legal dribbling in your decisions and get over on the side of your nation.

Every criminal and every member of the Mafia in the United States must dance with glee at some of your decisions. I'm sure that they have a feeling that you are on their side.

Very truly yours,

[redacted]
Olathe, Kansas 66061

b6
b7C

REC-33
62-27585-

MAR 13 1969

[redacted]
cc - J. Edgar Hoover
Enc: Newspaper article

F B I
REC'D - ...

CORRESPONDENCE

MAR 11 7 38 AM '69

no ack - copy

REC'D - CORR & ...

MAR 19 1969

SUPREME COURT

April 23, 1969

Memorandum for Messrs. Tolson, DeLoach, Gale, Rosen, Sullivan, Bishop

I said the problem of the draft is a serious one and, of course, the Supreme Court says the police cannot arrest a person and take his fingerprints because if they do, they are violating the Constitution. I said that is an unheard of thing as many times you solve a crime through fingerprints, but the decision was 6 to 2 against fingerprinting. I said it is that kind of thing we are getting, not only at the local level but at the Federal court level, which makes me at times almost be despondent whether anything can be done. The President said it is going to take at least four years or more to get the courts changed. I said I thought he was going to have the opportunity to make progress on the Supreme Court as there will be four vacancies. The President seemed surprised and asked if there were four. I said I understand the fellow from New York, and the President said Harlan, and I said, yes, that I understand he is deaf and can't hear anything and is planning to retire and, of course, Warren will be going off and Black's health is getting worse. The President commented that Black is 80 and I said he was 82. I said Douglas, of course, is crazy and is not in too good health. I said that makes Harlan, Douglas, Black, and Warren.

62-27585-

NOT RECORDED
29 JUN 19 1969

30 JUN 23 1969

North Carolina General Assembly

Senate Chamber
State Legislative Building
Raleigh 27602

May 3, 1969

SENATOR JULIAN R. ALLSBROOK
FOURTH DISTRICT
HOME ADDRESS:
P. O. BOX 108
ROANOKE RAPIDS, N. C.

COMMITTEES:
CONSTITUTION, CHAIRMAN
JUDICIARY NO. 1, VICE CHAI
APPROPRIATIONS
CONSERVATION & DEVELOPME
CORRECTIONAL INSTITUTIONS
& LAW ENFORCEMENT
INSURANCE
MENTAL HEALTH
PUBLIC ROADS

Mr. Tolson
Mr. Bishop
Mr. Callahan
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

31 MAY 6 1969 EXP. PROC.

Mr. J. Edgar Hoover
Director
Federal Bureau of Investigation
United States Department of Justice
Washington, D. C. 20535

Dear Mr. Hoover: OSUPREME COURT

You have so kindly furnished me with information needed in the North Carolina General Assembly in opposition to the attempted repeal of the death penalty that I felt that I should like to furnish you confidentially a copy of a joint resolution which I will probably introduce in the State Senate within the next few days. It may be that there will be some minimal changes made in this resolution prior to its introduction but substantially it will carry the same thought, purpose and objective as now written.

I am forwarding this to you with the request that you examine this document and forward to me confidentially, should you desire to restrict your comments to that relationship, such criticism or constructive suggestions as you may see fit to make in the strengthening of this document. You will observe that this is a petition for a redress of grievances rather than a mere petition for a submission of Constitutional Amendments so as to request Congress to take such action as may lie within its power to curb the jurisdictional and other powers of the United States Supreme Court. You will note, however, that this request is in addition to the further request for the submission of Constitutional Amendments to the Legislatures of the various states which could require a substantial amount of time. I am familiar also with the recent actions of the Iowa General Assembly

62-27585
NOT RECORDED
MAY 19 1969

ENCLOSURE
ENCLOSURE

14
15 MAY 6 1969

ORIGINAL FILED IN

but understand that its action nor that taken by other states would deal exclusively with the subject enclosed in my Resolution.

I would also like to impose upon you to the extent of having you furnish me with the services furnished by your Crime Laboratory to the Law Enforcement Agences of the various states of the nation. I am also on the Committee on Correctional Institutions and Law Enforcement and there have been some proposals made at this Session to immediately enlarge our Laboratory facilities to some extent at this time with the ultimate objective being to expand to an exceedingly large degree these facilities within the State Bureau of Investigation. In view of the fact that your department furnished such excellent services to us in the Navy during World War II when services of that type were needed and coupled also with information which I have obtained from one of your former long-time agents who is now employed by us, I have serious doubts that such action would be the proper one to be taken at this time. Of course, I realize the need of having personel and equipment available to our state agencies for the immediate collection of evidence which might be destroyed or deteriorate. Yet the ultimate study and evaluation of this testimony could well be referred to your Department for that purpose and final evaluation as that type of service is now available for prompt and efficient service.

I am taking the liberty of writing you about these matters because I know that you have been so largly responsible for arousing the American people to the dangers resulting from Communism and other subversive forces constantly working to destroy this nation and its Government. As above stated, because I do need this information immediately if it is to be of value during the current Session of our General Assembly I would deeply appreciate your letting me hear from you immediately if time and circumstances will permit.

Sincerely,

Julian R. Allsbrook

Julian R. Allsbrook

JRA/bj

Enclosure

A. 1028 (Senator Allsbro[illegible] or. [illegible]: Resolution on usurpation[illegible]owers by the Supreme Court o[illegible] United States.

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES AND THE MEMBERS OF THE CONGRESS FROM THE STATE OF NORTH CAROLINA IN THE FORM OF A PETITION FOR THE REDRESS OF GRIEVANCES AND URGING THE CONGRESS TO PROPOSE SUITABLE AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES AND TO ENACT PROPER LEGISLATION TO CURB THE USURPATIONS OF POWER BY THE SUPREME COURT OF THE UNITED STATES.

Your memorialist, the General Assembly of North Carolina, in its Regular Session for the Year of 1969, hereby petitions the Congress of the United States and the members of the Congress from the State of North Carolina in the form of a petition for the redress of grievances because of the unwarranted and unauthorized usurpations of power on the part of the Supreme Court of the United States, and to that end states its grievances, as follows:

(1) The Supreme Court of the United States has destroyed the line of demarcation which separates the sovereign powers which heretofore existed between the States and the Federal Government and has utterly destroyed the dual system of government envisioned by those who formulated the Constitution of the United States and the Amendments thereto; the States have now become mere agencies of administration for the Federal Government, and there is now no longer any sovereign power left to the States nor does there exist any longer any area of governmental processes in which the States are sovereign.

(2) The Supreme Court of the United States by its unwarranted decisions has vastly expanded the power of the administrative agencies of the Federal Government so that every facet of the private lives of the citizens of [illegible]ou[illegible]tes is subject to the control of these Federal bureaucratic agencies and their [illegible]les and regulations which they multiply [illegible]tatorial, tyrannical and arbitrary rules and regulations which they multiply [illegible]e and far beyond the basic objectives and powers [illegible] and has rendered thes[illegible] Amendments [illegible] Constitution of the United States and has rendered these [illegible]endments utterly [illegible]

(3) The [illegible] Court of the United States under the guise [illegible]se [illegible]oak of judicial [illegible]ior has arrogated to itself [illegible]s [illegible]h[illegible]ation in utter disregard of the division and separation of pow[illegible] designed by those who expressed these concepts of division in the Co[illegible]

of the United States. The Supreme Co of the United States has converted itself into a dictatorial, ruling oligarchy and for many years has embarked upon a program of judicial legislation by its overbearing, fictitious and imperious fiats and decrees falsely cloaked in the form of judicial decisions and has perverted and distorted the Constitution of the United States by substituting therefor its own personal ideologies and dogmas. The Supreme Court of the United States boldly amends the Constitution of the United States without any resort to the design or plan for such amendment as stated in that instrument.

(4) The Supreme Court of the United States by its decisions has turned loose upon the people of this Nation thousands of vicious and depraved murderers, rapists, convicts, recidivists and felons who kill our citizens, rape our women, molest our children with complete impunity and freedom and who repeat these terrible acts over and over again. This Court has made a mockery of the decisions of the highest appellate courts of the States, and even its District Federal Judges overturn the decisions of the highest appellate courts of the States, nullify decisions of State courts on their own constitutions and statutes so that a decision of the highest appellate court of a State is nothing but the result of a preliminary hearing. The Supreme Court of the United States, under the guise of the exercise of free speech, has protected and sheltered by its decisions vicious and barbaric Communists who are working to overthrow the Government of the United States; it has protected Communist teachers in the public schools and given them an opportunity to indoctrinate school children with their vicious Marxist propaganda; it has protected and caused Communists to have free entry into defense plants where they can

obtain for the Soviet Government our defensive secrets and the plans of our inventions and weapons.

(5) In its protection of criminals it has conjured up and invented a labyrinth of rules so that the police are manacled, tied and handcuffed in a mass of artificial rules, poorly conceived, and impossible of application, so that the issue of guilt or innocence becomes utterly irrelevant in a criminal trial, and the police can scarcely protect the citizens of the Nation.

(6) The Supreme Court of the United States, acting contrary to the intent of the Federal Constitution, has expanded the powers of the federal judiciary so that under the guise of the writ of federal habeas corpus the federal judiciary now reviews every stage and step of a trial in the State courts; the Supreme Court of the United States has authorized the federal judiciary to interfere with the enforcement of State laws and the legislative enactments of the States by the oppressive and arbitrary use of injunctions issued by Federal Judges; the Supreme Court of the United States has authorized various Federal agencies, arbitrarily and capriciously, to oppress, harass and control normal state functions and the lives of the people of the States; the Supreme Court of the United States, *contrary to former decisions* of that Court, has expanded the powers of the Federal Government under the Interstate Commerce Clause of the Federal Constitution until the Federal Government and its agencies utterly control in minute detail the economic system and the private businesses of the people of the States and have undermined, subverted and destroyed rights of private property, has wrongfully and in an unconstitutional manner taken from the people of the States the right to control their own legislatures, to set their own standards for the eligibility of members thereof, and the right of the people to control their own apportionment of representatives, both in their legislatures and in their congressional districts; the Supreme Court of the United States has empowered the Federal Judiciary with the authority to set aside and interfere with the election laws of the States, and has taken from the people of the States the right to determine the eligibility of electors in the various elections;

the Supreme Court of the United States has authorized discriminatory and preferential treatment of various minority groups of the States and Nation a taken from the majority of citizens of the several States their lawful rights powers.

(7) The Supreme Court of the United States in the last few years has invented many fictional and mythical rights which do not expressly appear in the Federal Constitution, such as the freedom of association, the so-called "right of privacy", has nullified loyalty oaths, and has turned loose upon the people a massive flood of pornographic materials; it has prevented the intell

agents of the Nation and the police from using wiretapping to discover and apprehend spies and criminals, and, in addition, has invented a series of impediments against searches and seizures so that law enforcement officers cannot control narcotics and illegal drugs. The Court has all but abolished capital punishment and has rendered it almost impossible to obtain a fair and objective jury in capital cases.

(8) The Supreme Court of the United States has sheltered and protected Communists, Revolutionaries and Subversives in that it allows them to tear down the American Flag and hoist the flag of our enemies in its place; it allows these persons to disgrace, spit upon and burn the American Flag, all under the guise and fictitious pretext of exercising the right of free speech. This Court has destroyed rules of evidence in force for many generations by making it almost impossible to introduce into evidence the voluntary confession made by a criminal.

(9) The Supreme Court of the United States has wrested from and utterly destroyed the power of the people acting through their State agencies to control their public school system and their institutions of higher learning; they permit Federal bureaucrats to cut off Federal funds for the public schools for failure to conform to impossible guidelines and control the assignment and racial composition of students and teachers; they control the facilities and buildings of the public school system, by ordering their location of buildings and the size mandatory fashion; they have allowed federal bureaucrats to reach into every facet and detail of public school administration and have stripped local boards of education of all their powers and authority; the Supreme Court of the United Sta

[illegible] allowed and approved the wearing of provocative armbands, buttons and slogans by students which tend to disrupt the discipline of the student body they have approved so-called "participatory democracy" whereby students con the curricula of colleges and schools and many other disorderly things under pretense and guise of constitutional rights. Now, therefore, be it resolved b Senate, the House of Representatives concurring:

Section 1. That your memorialist, the General Assembly of North Carolina, in its Regular Session of 1969, presents the above as a petition for

redress of grievances to the Congress of the United States, the North Carolina Congressional Delegation, and in behalf of all other States of the Union.

Sec. 2. That petition is hereby made to the Congress of the United State pursuant to Article V of the Constitution of the United States, to submit amendments to the Constitution of the United States to the Legislatures of the States, which said Amendments shall afford redress for these grievances and shall clearly and concretely define the separation of powers between the Federal Government and the States in all phases and aspects of government and which clearly define and limit the jurisdiction of the Supreme Court of the United State

Sec. 3. That the Congress of the United States is hereby petitioned to enact suitable legislation which will define and limit the jurisdiction and powers of the Supreme Court of the United States.

Sec. 4. That this petition for redress of grievances is submitted pursuant to the First Amendment to the Constitution of the United States, which provides that a petition can be addressed to the Government for redress of grievances.

Sec. 5. The Secretary of State is hereby directed to transmit certified copies of this Resolution to the presiding officers of the Senate and House of Representatives of the Congress.

Sec. 6. This Resolution shall become effective upon its adoption.

May 8, 1969

62-27585

Honorable Julian R. Allsbrook
North Carolina General Assembly
Raleigh, North Carolina 27602

My dear Senator:

I have received your letter of May 3rd and the copy of the Resolution.

While I appreciate the interest which prompted you to furnish this to me, it would not be proper for me as the head of a strictly investigative agency of the Federal Government to comment on or endorse this Resolution. Within the Department of Justice it is the function of the Attorney General to determine the desirability of proposed legislation.

With respect to your request to furnish you with data regarding the services of our Laboratory, enclosed is a publication which I hope will be helpful to you.

Sincerely yours,

J. Edgar Hoover

MAILED 10
MAY 8 - 1969
COMM-FBI

Enclosure
The FBI Laboratory

1 - Charlotte - Enclosures (2)

NOTE: Bufiles disclose a previous inquiry from Senator Allsbrook regarding death penalty and capital punishment and we acknowledged his letter on 4-3-69 furnishing him statistical data and a copy of our 1967 Uniform Crime Reports bulletin as well as other material. The Resolution he encloses is extremely critical of the Supreme Court and petitions the U. S. Congress to enact suitable legislation which will define and limit the jurisdiction and powers of the Court.

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

56 MAY 23 1969

MAIL ROOM ☐ TELETYPE UNIT ☐

ORIGINAL FILED IN 62-410-36-2

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bishop

DATE: 5-26-69

FROM : M. A. Jones

SUBJECT: DREW PEARSON BROADCAST
NEWSNIGHT, WTOP-TV, CHANNEL 9
5-25-69, 6:30 P. M.

Tolson
DeLoach
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

The above-captioned television program was monitored for any comments of interest to the Bureau. There was no mention of the FBI or the Director, and the following remarks of Pearson on general subjects are set forth for information purposes:

The Navy has had a succession of unfortunate happenings and serious accidents, including the loss of the Pueblo as well as fires causing the sinking of vessels. The charge has been made that faulty steel plates may have been used in the construction of ill-fated vessels; however, as yet no official inquiry has been made because Congressman Mendel L. Rivers, Democrat from South Carolina, was a good friend to the Navy. Pearson predicted that Rivers would not be able to protect the Navy from an inquiry by the Government Operations Committee.

Pearson raised the question whether decisions of the Warren Court would stand now that President Nixon has nominated Judge Warren E. Burger to be the new Chief Justice of the Supreme Court. In particular, Pearson speculated about the landmark decision on school desegregation and the ruling on reapportionment which gave larger cities greater representation in Congress. Pearson predicted there would be no change in these decisions. However, he did say the Warren Court's practice of giving protection to criminals would change in favor of protecting the rights of collective members of our society.

No one seems to know what Chief Justice Earl Warren will do after stepping down from the high bench. Pearson predicted Warren would travel extensively and afterwards accept a position as Chairman of the Harry Truman Peace Center. 62-27585-

RECOMMENDATION:

NOT RECORDED
150 MAY 29 1969

25 MAY 27 1969

None. For information.

1 - Mr. DeLoach
1 - Mr. Bishop
1 - Mr. Rosen

54 JUN 4 - 1969

JRP:esl (6)

CRIME RESEARCH

4-312 (Rev. 1-18-62)

Date of Mail 12/19/69

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

See File 66-2554-7530 for authority.

Subject JUNE MAIL - Supreme Court

Removed By 97 APR 22 1970

File Number 62-27585-√

Permanent Serial Charge Out

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

JUNE

DATE: December 19, 1969

FROM : A. Rosen

1-Mr. DeLoach
1-Mr. Rosen
1-Mr. Malley
1-[redacted]
1-[redacted]
1-Mr. Sull[redacted]
1-Mr. Gale

SUBJECT: WIRETAPPING AND ELECTRONIC SURVEILLANCES

Tolson
DeLoach
Walters
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Soyars
Tele
Holmes
Gandy

To recommend that Departmental requests for pre-trial electronic surveillance checks concerning defendants be handled by the Division recommending and supervising these installations throughout the period covered by the Department's request.

Recent Supreme Court decisions have held that a defendant is secure against illegal electronic surveillances which monitor his conversations as well as illegal electronic surveillances installed on his premises (home, office and so forth) regardless of whether he was present or whether he was monitored (avoids monitoring other persons on his premises and use of such information in building a case against the defendant). Current Bureau instructions require written authority from the Attorney General prior to installation of all such surveillances in accordance with detailed instructions from the Attorney General. In compliance with court holdings, the Department routinely requests details of monitoring concerning defendants' conversations prior to the time of trial. These requests require all surveillance logs of conversations in which the defendant has participated, logs of all conversations on premises in which the defendant has a proprietary interest as well as complete details concerning dissemination of information received from these sources.

Handling by the installing Division retains these highly sensitive "need-to-know basis" documents to review by a minimum number of personnel. Close, continuing supervision is required by the Bureau to insure that instructions issued by the Attorney General are being fully complied with by the field. This supervision is afforded by the Division requesting the installation.

RECOMMENDATION:

That these requests be handled by the installing and supervising Division rather than the Division responsible for prosecution in order to insure prompt, efficient handling and a greater degree of security in these highly sensitive matters.

SEE ADDENDUM PAGE TWO AND THREE

62-27585
NOT RECORDED
176 MAR 24 1970

[redacted]
(9)
6 APR 2 1970

[redacted]
5 MAR 28 1970

SPECIAL MAIL RM

ORIGINAL FILED IN 62-318-6262

Re: Wiretapping and Electronic Surveillances

ADDENDUM OF SPECIAL INVESTIGATIVE DIVISION, 12/23/69, JHG:mfd

I am not in agreement with the above proposals for the following reasons:

Under the present procedures, when the division requests a ch[redacted] of our electronic indices, this request is made by search slip to the Special Investigative Division where it is checked by Special Agent [redacted] who notifies the appropriate division whether the results are positive or negative. If the results are positive, the interested division then writes to the field, obtains all appropriate documents and handles all correspondence with the Department.

b6, b7C

If the suggestion by the General Investigative Division were to be adopted, it would mean that the defense attorneys would be able to subpoena an extra supervisor for testimony from the Bureau in addition to the supervisor handling the case. This, of course, is extra travel expense and gives the defense two shots at us instead of one. The Agent handling the prosecutive case is the logical man to obtain the logs and other pertinent airtel documents from the field as well as review the June file so that he can testify that the case he has supervised was not predicated upon any tainted information. The division who handled and supervised the installation is not in a position to determine whether the case is tainted because they have not supervised the case itself and are not aware of the ramifications contained therein.

The argument that the handling by the installing division retains "these highly sensitive need to know basis documents" to review by a minimum number of personnel is completely fallacious when the courts are turning such documents over to defense attorneys. I recall an instance where the defense attorneys in the Bobby Baker case leaked the fact that we had a microphone on the Dominican Republic to Drew Pearson. As it is now, the defense attorneys have in some instances subpoenaed the Agent who checked the electronic indices as well as the supervising case Agent. To follow the above suggestion would make possibly five or six additional supervisory Agents necessary to testify depending upon how many installations are involved and were supervised by different personnel in the installing division.

I wish to make a counter proposal which will eliminate the necessity of one Agent back here to testify. My proposal is that the Special Investigative Division continue to handle all search slips as we have been doing in the past. However, when there is a likelihood that the case is

going to be prosecuted and an electronic hearing demanded by the defense, that before submitting the final electronic data to the Department that the substantive case supervisor of the case being prosecuted himself check the electronic indices so that he can testify that all information which he has received from the field and which is available at the Bureau is turned over to the Department. The substantive case supervisor would, of course, continue to review the pertinent June files as is done at the present time. This would make it more likely that all testimony from the Seat of Government could be confined to one supervisor instead of giving the defense a number of shots at the Bureau in connection with these matters.

I agree
DBD

SEE ADDENDUM: DOMESTIC INTELLIGENCE DIVISION PAGE FOUR

ADDENDUM: DOMESTIC INTELLIGENCE DIVISION WCS:jes 12/23/69

I am in agreement with the observations and proposal of the Special Investigative Division that the Division responsible for prosecutive action also handle all phases of work pertaining to electronic surveillances.

In the Domestic Intelligence Division, numerous Supervisors have had or have electronic surveillances in cases assigned to them. Since a number of the electronic surveillances may be involved in one prosecutive case, it would mean having a number of Supervisors reviewing files and furnishing instructions to field offices in one prosecutive case if the electronic surveillance phase was to be handled by the Division having been responsible for the recommendation and installation of an electronic surveillance. This alone would cause less prompt or efficient handling of the prosecutive case without in any manner assisting in its final adjudication.

W.C.S.

Baltimore, Md., Febr[illegible]ry 5, 1970

Mr. Tolson
Mr. DeLoach
Mr. Walters
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

The Honorable J. Edgar Hoover,
Director of the Bureau of Investigation,
Washington, D.C.

Dear Sir:

If I have failed to address you properly I offer my apology.

A tabloid newspaper which is being circulated here in Baltimore during the existing strike in the plants of The News-American Morning and Evening Sun carried quite an article concerning a book written by Justice William Douglass, of the Supreme Court of the United States. I, personally did not read the article but one of my sisters read it to me by telephone last evening.

This book, according to the article, bears the title "Points of Rebellion", and further, according to the article referred to, it is to be published very shortly by Random House.

In this book, according to the article, there are many statements bearing on conditions existing presently in so many parts of The United States, and the language in which the book is couched seems to border on Unamericanism, if not subversiveness.

I am not sure about the name of the tabloid but I think it is called Baltimore Daily. I believe the article referred to as expressing Justice Douglass' viewpoint is of such nature it should be censored and not be allowed to go to publication by Random House.

If I am out of order in bringing this matter to your attention I am sorry. Frankly I love my Country and it hurts me to have said about it what the Justice has written in his book.

If you think it worth your while to investigate this matter I shall appreciate hearing from you if this is permissible.

Very truly yours,

[redacted]

Baltimore, Md. 21218

P.S. The Baltimore Daily was of date February 3 or 4, 1970

REC 45 62-[illegible]-256

FEB 13 1970

Acknowledged 2-12-70

[redacted]

XEROX FEB 13 1970

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/14/81 BY SP-1 GSK/ma

CORRESPONDENCE

UNRECORDED COPY FILED IN

February 12, 1970

REC 45 62-27585-256

[redacted]

Baltimore, Maryland 21218

Dear [redacted]

I received your letter of February 5th and appreciate the interest which prompted you to write. With respect to your remarks, it would not be proper for me, as the head of a Federal investigative agency, to comment on the statements made by a member of the United States Supreme Court.

Sincerely yours,

J. Edgar Hoover

MAILED 4
FEB 12 1970
COMM-FBI

NOTE: Our files contain no record of correspondent.

[redacted] (3)

Tolson
DeLoach
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Mohr
Bishop
Casper
Callahan
Conrad
Felt
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Rosen
Sullivan
Tavel
Soyars
Tele. Room
Holmes
Gandy

FEB 26 1970

MAIL ROOM ☐ TELETYPE UNIT ☐

11:45 AM

March 19, 1970

MEMORANDUM FOR MR. TOLSON
MR. MOHR
MR. CASPER
MR. BISHOP

In the absence of Assistant Director Joseph J. Casper, I advised Inspector T. J. Jenkins that I would like to have Mr. Casper or him, Mr. Jenkins, go up and talk to the Chief of the Supreme Court Police force. I said the Chief Justice of the Court is in charge of the policing of the Supreme Court and is very much concerned about bombings and things of that kind, not only of the Supreme Court but all Federal Buildings, and I am taking care of the latter, but he asked if we had somebody from here who can possibly give to the Captain up there some ideas and things he should do for the protection of that building and the protection of the Justices.

I told Mr. Jenkins I would like to have that taken care of as soon as possible and Mr. Jenkins said it would be taken care of today.

Very truly yours,

J. E. H.

John Edgar Hoover
Director

REC-26 62-27-25 = 25

5 MAR 20 1970

EX-114

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Holmes
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JEH:edm (8)

SENT FROM D. O.
TIME 2:30 PM
DATE 3-19-70
BY [illegible]

67 MAR 23 1970

MAIL ROOM ☐ TELETYPE UNIT ☐

United States Court of Appeals
District of Columbia Circuit
Washington, D. C. 20001

Chambers of
Edward Allen Tamm
United States Circuit Judge

March 20, 1970

Mr. DeLoach
Mr. Walters
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

SUPREME COURT

b6
b7C [redacted]

J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Washington, D. C.

My dear Edgar:

In the course of our discussion yesterday relating to the security of federal court houses, we had occasion to comment on the use of contempt power by a trial judge and I mentioned to you an opinion of Mr. Justice Frankfurter in which you expressed an interest. The case in which Justice Frankfurter wrote for the court in this area is entitled Offutt v. United States and the opinion appears at page 11 of volume 348 of the United States Reports. The significant requirement of the opinion is that in reversing Judge Holtzoff's conviction of Offutt for contempt of court committed in the court's presence, the Supreme Court ruled that "the determination of petitioner's guilt and the punishment to be properly meted out on a finding of guilt should have been made in the first instance by a judge not involved, as was this trial judge, in the petitioner's misconduct."

If the contempt convictions in Chicago and Washington of trial counsel are to be affirmed by the Supreme Court, that court will have to apparently overrule the Offutt case.

You will, I am sure, have someone review the Offutt case opinion and furnish you with the full details. Other aspects of the Offutt case appear in the following volumes of the second series of the Federal Reporter: 208 F.2d 842; 210 F.2d 693; 232 F.2d 69 and 247 F.2d 88.

62-27585-
NOT RECORDED
102 APR 6 1970

Sincerely,

b6
b7C [redacted]

Have [redacted] review this case.

Ed (Tamm)

15 MAR 30 1970

March 25, 1970

PERSONAL

62-27585-

Honorable Edward A. Tamm
United States Circuit Judge
District of Columbia Circuit
United States Court of Appeals
Washington, D. C. 20001

Dear Ed:

Thank you for your kindness in writing me on March 20 to advise me of the Offutt case. I have read an analysis of that decision and related decisions and find them most interesting in connection with contempt problems now facing the courts.

Sincerely,

Edgar

MAILED 22
MAR 25 1970
COMM-FBI

1 - Mr. DeLoach
1 - Mr. Bishop
[redacted]
(5)

NOTE: Based on memo Casper to Mohr, 3/24/70, re "Contempt of Court, [redacted]

The name of the case, Offutt, is underlined in this letter because this is standard legal practice in referring to a case by name rather than by citation.

APR 9 1970 TELETYPE UNIT

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: 3/24/70

FROM : J. J. Casper

SUBJECT: CONTEMPT OF COURT
SUPREME

Tolson
DeLoach
Walters
Mohr
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Callahan
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Tele. Room
Holmes
Gandy

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(info)

The Director requested an analysis of the decision entitled Dorsey K. Offutt, an Attorney, Petitioner v. United States of America, 348 U.S. 11 (1954), mentioned to him in Judge Tamm's letter of March 20, 1970.

Offut was defense attorney for one Peckham, charged with abortion in the District of Columbia. Peckham was convicted in a 14-day trial. The trial was marked by hostility between Offutt and Judge Holtzoff. Holtzoff accused Offutt of "insolent, insulting and offensive remarks to the court... questions... obviously intended to besmirch a witness... boisterous, belligerent, discourteous and offensive tone of voice... he constantly tried to create an episode that might lead the court to direct a mistrial." Offutt v. U.S., 208 F2d 842 (1953). Offutt objected to Holtzoff "yelling at me and raising your voice like that." Holtzoff said, "If you say another word I will have the Marshal stick a gag in your mouth." Holtzoff told the jury at the end that "You have been compelled to sit through a disgraceful and disreputable performance on the part of a lawyer who is unworthy of being a member of the professio and I, as a member of the legal profession, blush that we should have such a specim in our midst." Offutt v. U.S., 348 U.S. 11 (1954).

Peckham appealed and his conviction was reversed by the Court of Appeals, District of Columbia Circuit, on the ground that Holtzoff excessively inject himself into the examination of witnesses "and judge's numerous comments to defens counsel, indicating at time hostility, though under provocation, demonstrated a bias and lack of impartiality which may well have influenced the jury." Peckham v. U.S. 210 F2d 693 (1953). In a new trial he was convicted again and the Supreme Court denied certiorari. Peckham v. U.S., 226 F2d 34 (1955), cert. den. 350 U.S. 912.

Offutt was sentenced by Judge Holtzoff to ten days for contempt of cou He appealed and the Court of Appeals found that Holtzoff's judgment of contempt was amply supported. But, the court continued, "...we think the record does not suppo the penalty imposed. Appellant's conduct cannot fairly be considered apart from tha of the trial judge. Each responded to great provocation from the other." The convi tion for contempt was upheld but the sentence was reduced to 48 hours. Offutt v. U. 208 F2d 842 (1953).

62-97585-

10 APR 8 1970

Enclosure sent 3-25-70
1 - Mr. DeLoach
1 - Mr. Bishop

NOT RECORDED
109 APR 6 1970

(CONTINUED - OVER)

60-[redacted]-9 1970

b6
b7C

Memo Casper to Mohr
Re: Contempt of Court

Offutt went to the Supreme Court, where in a 6-3 opinion delivered by Mr. Justice Frankfurter conviction was reversed. The court said this was the type of case which district judges should handle "by not sitting themselves in judgment upon misconduct of counsel where the contempt charged is entangled with the judge's personal feeling against the lawyer." The Court stated that when the case is remand to district court a different judge should hear it. Offutt v. U. S., 348 U. S. 11 (1954)

Offutt was brought before Judge Charles F. McLaughlin, Jr., and aga found guilty of contempt. He appealed and the Court of Appeals again reversed, holding that Judge McLaughlin should have allowed Offutt to introduce evidence on ho he was treated by the judge and the prosecutor, and evidence to prove that his questi at the Peckham trial were relevant and proper rather than prejudicial. Offutt v. U. 232 F2d 69 (1956), cert. den. 76 Sup. Ct. 1049. Again the case went back, this tim before Judge R. N. Wilkin, and again there was a finding of contempt, with sentence of 48 hours. Offutt appealed again. The Court of Appeals found that the evidence su tained the conviction for discourtesy to Judge Holtzoff but did not sustain the charge baseless and prejudicial questions asked of witnesses in the Peckham trial. Senten was modified to commitment to the custody of the U. S. Marshal for 6 hours. Offutt v. U. S., 247 F2d 88 (1957), cert. den. 355 U. S. 856.

The first inclination on reading Offutt is to find in it the formula fo handling contempt problems now plaguing the courts. The conclusion may prove correct, but the confusion in the law prevents it from being more than an "educated guess" at this time. Rule 42 (a), Federal Rules of Criminal Procedure, on "Criminal Contempt," provides that when the judge certifies that he saw or heard th contempt, and that it was committed in the actual presence of the court, he may punish "summarily," - right now. The fact that the contempt was directed toward t judge himself is immaterial. Rule 42 (b) provides, however, that except for those contempts covered by Rule 42 (a) all contempts shall be prosecuted on notice and before a different judge unless the accused consents to the same judge. This is in l with Offutt, indicating that if the judge allows the contempt to go unpunished until en of trial the matter must be heard by a different judge. But there is a decision, not expressly overruled, to the contrary. In Sacher v. U. S., 343 U. S. 1 (1952), rehea ing denied 343 U. S. 941, attorneys for Communist Party leaders were contemptuou of the trial judge. That same judge (Medina) reserved judgment until the trial was finished and then himself sentenced them for contempt. The attorneys appealed to the Supreme Court. The only question before the Court was whether Judge Medina could do this (as Judge Hoffman did in Chicago recently) under Rule 42 (a), discusse above. In a 5-3 decision by Mr. Justice Jackson (Frankfurter, Black and Douglas dissenting; Clark not participating) the Court upheld Judge Medina.

Memo Casper to Mohr
Re: Contempt of Court

Offutt was decided after Sacher, and thus may be thought to overrule Sacher, but a reputable source says "The majority opinion in the Offutt Case did not overrule the Sacher Case... (citations only); it expressly stated that the Court would 'not retrace the ground so recently covered' in the Sacher Case. This indicates that the two cases may be distinguishable upon the facts involved in that in the Offutt Case the contempt was 'entangled with the judge's personal feeling against the lawyer' to a much greater extent than in the Sacher Case, where the contempt was merely 'personal' to the judge." Annotation: Contempt-Summary Power, 3 Lawyers' Edition 2d 1855.

RECOMMENDATION:

None. For the Director's information.

NOTE: A suggested letter to Judge Tamm is attached should the Director wish to use it.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 4/2/70

FROM : SAC, WFO (62-0)

Attention: Legal Research

SUBJECT: WILLIAM ALLEN

MISCELLANEOUS INFORMATION CONCERNING
SUPREME COURT DECISION REGARDING
COURT PROCEDURE

Enclosed for the Bureau is one copy of a decision rendered by the United States Supreme Court on March 31, 1970, in the case of the State of Illinois Versus WILLIAM ALLEN number 606 appellate. Also enclosed for the Bureau is one copy each of the concurring opinion of Justices DOUGLAS and BRENNEN.

ALLEN was convicted of armed robbery. He later filed a petition for Writ of Habeas Corpus in the Federal Court, alleging that he had been wrongfully deprived by the State of Illinois trial judge of his constitutional right to remain in the court room throughout his trial. ALLEN became abusive in the court room. After proper warning, the trial judge had him removed and proceeded with the trial, at the conclusion of which he was convicted.

The Court of Appeals reversed his conviction. In reversing the Court of Appeals, the Supreme Court, in an eight-to-nothing decision stated, "We think there are at least three constitutionally permissible ways for a trial judge to handle an obstreperous defendant like ALLEN:

(1) Bind and gag him, thereby keeping him present; (2) cite him for contempt; (3) take him out of the court room until he promises to conduct himself properly."

REC-64 62- 258

16 APR 3 1970

2-Bureau (Enc. 3)
1-WFO
[redacted] (3)

3 ENCLOSURE

"ENCLOSURE ATTACHED"

7 APR 7 1970

SUPREME COURT OF THE UNITED STATES

No. 606.—October Term, 1969

State of Illinois, Petitioner, v. William Allen. | On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[March 31, 1970]

Mr. Justice Black delivered the opinion of the Court.

The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him. . . ." We have held that the Fourteenth Amendment makes the guarantees of this clause obligatory upon the States. *Pointer* v. *Texas*, 380 U. S. 400 (1965). One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial. *Lewis* v. *United States*, 146 U. S. 370 (1892). The question presented in this case is whether an accused can claim the benefit of this constitutional right to remain in the courtroom while at the same time he engages in speech and conduct which is so noisy, disorderly, and disruptive that it is exceedingly difficult or wholly impossible to carry on the trial.

The issue arose in the following way. The respondent, Allen, was convicted by an Illinois jury of armed robbery and was sentenced to serve 10 to 30 years in the Illinois State Penitentiary. The evidence against him showed that on August 12, 1956, he entered a tavern in Illinois and, after ordering a drink, took $200 from the bartender

at gunpoint. The Supreme Court of Illinois affirmed his conviction, *People* v. *Allen*, 37 Ill. 2d 167, 226 N. E. 2d 1 (1967), and this Court denied certiorari. 389 U. S. 907 (1967). Later Allen filed a petition for a writ of habeas corpus in federal court alleging that he had been wrongfully deprived by the Illinois trial judge of his constitutional right to remain present throughout his trial. Finding no constitutional violation, the District Court declined to issue the writ. The Court of Appeals reversed, 413 F. 2d 232 (1969), Judge Hastings dissenting. The facts surrounding Allen's expulsion from the courtroom are set out in the Court of Appeals' opinion sustaining Allen's contention:

> "After his indictment and during the pretrial stage, the petitioner [Allen] refused court-appointed counsel and indicated to the trial court on several occasions that he wished to conduct his own defense. After considerable argument by the petitioner, the trial judge told him, 'I'll let you be your own lawyer, but I'll ask Mr. Kelly [court-appointed counsel] [to] sit in and protect the record for you, insofar as possible.'
>
> "The trial began on September 9, 1956. After the State's Attorney had accepted the first four jurors following their *voir dire* examination, the petitioner began examining the first juror and continued at great length. Finally, the trial judge interrupted the petitioner, requesting him to confine his questions solely to matters relating to the prospective juror's qualifications. At that point, the petitioner started to argue with the judge in a most abusive and disrespectful manner. At last, and seemingly in desperation, the judge asked appointed counsel to proceed with the examination of the jurors. The petitioner continued to talk, proclaiming that the appointed attorney was not going to

act as his lawyer. He terminated his remarks by saying, 'When I go out for lunchtime, you're [the judge] going to be a corpse here.' At that point he tore the file which his attorney had and threw the papers on the floor. The trial judge thereupon stated to the petitioner, 'One more outbreak of that sort and I'll remove you from the courtroom.' This warning had no effect on the petitioner. He continued to talk back to the judge, saying, 'There's not going to be no trial, either. I'm going to sit here and you're going to talk and you can bring your shackles out and straight jacket and put them on me and tape my mouth, but it will do no good because there's not going to be no trial.' After more abusive remarks by the petitioner, the trial judge ordered the trial to proceed in the petitioner's absence. The petitioner was removed from the courtroom. The *voir dire* examination then continued and the jury was selected in the absence of the petitioner.

"After a noon recess and before the jury was brought into the courtroom, the petitioner, appearing before the judge, complained about the fairness of the trial and his appointed attorney. He also said he wanted to be present in the court during his trial. In reply, the judge said that the petitioner would be permitted to remain in the courtroom if he 'behaved [himself] and [did] not interfere with the introduction of the case.' The jury was brought in and seated. Counsel for the petitioner then moved to exclude the witnesses from the courtroom. The defendant protested this effort on the part of his attorney, saying: 'There is going to be no proceeding. I'm going to start talking and I'm going to keep on talking all through the trial. There's not going to be no trial like this. I want

> my sister and my friends here in court to testify for me.' The trial judge thereupon ordered the petitioner removed from the courtroom." 413 F. 2d, at 233–234.

After this second removal, Allen remained out of the courtroom during the presentation of the State's case-in-chief, except that he was brought in on several occasions for purposes of identification. During one of these latter appearances, Allen responded to one of the judge's questions with vile and abusive language. After the prosecution's case had been presented, the trial judge reiterated his promise to Allen that he could return to the courtroom whenever he agreed to conduct himself properly. Allen gave some assurances of proper conduct and was permitted to be present through the remainder of the trial, principally his defense, which was conducted by his appointed counsel.

The Court of Appeals went on to hold that the Supreme Court of Illinois was wrong in ruling that Allen had by his conduct relinquished his constitutional right to be present, declaring that:

> "No conditions may be imposed on the absolute right of a criminal defendant to be present at all stages of the proceedings. The insistence of a defendant that he exercise this right under unreasonable conditions does not amount to a waiver. Such conditions, if insisted upon, should and must be dealt with in a manner that does not compel the relinquishment of his right.
>
> "In light of the decision in *Hoyt* v. *Utah*, 110 U. S. 574 (1884) and *Shields* v. *United States*, 273 U. S. 583 (1927) as well as the constitutional mandate of the Sixth Amendment, we are of the view that the defendant should not have been excluded from the courtroom during his trial despite his disruptive and disrespectful conduct. The proper

course for the trial judge was to have restrained the defendant by whatever means necessary, even if those means included his being shackled and gagged." 413 F. 2d, at 235.

The Court of Appeals felt that the defendant's Sixth Amendment right to be present at his own trial was so "absolute" that, no matter how unruly or disruptive the defendant's conduct might be, he could never be held to have lost that right so long as he continued to insist upon it, as Allen clearly did. Therefore the Court of Appeals concluded that a trial judge could never expel a defendant from his own trial and that the judge's ultimate remedy when faced with an obstreperous defendant like Allen who determines to make his trial impossible is to bind and gag him.[1] We cannot agree that the Sixth Amendment, the cases upon which the Court of Appeals relied, or any other cases of this Court so handicap a trial judge in conducting a criminal trial. The broad dicta in *Hoyt* v. *Utah, supra,* and *Lewis* v. *United States,* 146 U. S. 370 (1892), that a trial can never continue in the defendant's absence has been expressly rejected. *Diaz* v. *United States,* 223 U. S. 442 (1912). We accept instead the statement of Mr. Justice Cardozo who, speaking for the Court in *Snyder* v. *Massachusetts,* 291 U. S. 97, 106 (1938), said: "No doubt the privilege [of personally confronting witnesses] may be lost by consent or at times even by misconduct."[2] Although mindful that courts must indulge every reasonable pre-

[1] In a footnote the Court of Appeals also referred to the trial judge's contempt power. This subject is discussed in Part II of this opinion. *Infra,* at 7-8.

[2] Rule 43 of the Federal Rules of Criminal Procedure provides that "[i]n prosecutions for offenses not punishable by death, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict."

sumption against the loss of constitutional rights, *Johnson* v. *Zerbst*, 304 U. S. 458, 464 (1938), we explicitly hold today that a defendant can lose his right to be present at trial if, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, he nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that his trial cannot be carried on with him in the courtroom.[3] Once lost, the right to be present can, of course, be reclaimed as soon as the defendant is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.

It is essential to the proper administration of criminal justice that dignity, order, and decorum be the hallmarks of all court proceedings in our country. The flagrant disregard in the courtroom of elementary standards of proper conduct should not and cannot be tolerated. We believe trial judges confronted with disruptive, contumacious, stubbornly defiant defendants must be given sufficient discretion to meet the circumstances of each case. No one formula for maintaining the appropriate courtroom atmosphere will be best in all situations. We think there are at least three constitutionally permissible ways for a trial judge to handle an obstreperous defendant like Allen: (1) bind and gag him, thereby keeping him present; (2) cite him for contempt; (3) take him out of the courtroom until he promises to conduct himself properly.

I

Trying a defendant for a crime while he sits bound and gagged before the judge and jury would to an extent

[3] See Murray, The Power to Expel a Criminal Defendant From His Own Trial: A Comparative View, 36 U. Colo. L. Rev. 171, 171–175 (1964); Goldin, Presence of the Defendant at Rendition of the Verdict in Felony Cases, 16 Col. L. Rev. 18, 18–31 (1916).

comply with that part of the Sixth Amendment's purposes that accords the defendant an opportunity to confront the witnesses at the trial. But even to contemplate such a technique, much less see it, arouses a feeling that no person should be tried while shackled and gagged except as a last resort. Not only is it possible that the sight of shackles and gags might have a significant effect on the jury's feelings about the defendant, but the use of this technique is itself something of an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold. Moreover, one of the defendant's primary advantages of being present at the trial, his ability to communicate with his counsel, is greatly reduced when the defendant is in a condition of total physical restraint. It is in part because of these inherent disadvantages and limitations in this method of dealing with disorderly defendants that we decline to hold with the Court of Appeals that a defendant cannot under any possible circumstances be deprived of his right to be present at trial. However, in some situations which we need not attempt to foresee, binding and gagging might possibly be the fairest and most reasonable way to handle a defendant who acts as Allen did here.

II

In a footnote the Court of Appeals suggested the possible availability of contempt of court as a remedy to make Allen behave in his robbery trial, and it is true that citing or threatening to cite a contumacious defendant for criminal contempt might in itself be sufficient to make a defendant stop interrupting a trial. If so, the problem would be solved easily, and the defendant could remain in the courtroom. Of course, if the defendant is determined to prevent *any* trial, then a court in attempting to try the defendant for contempt is still confronted with the identical dilemma that the

Illinois court faced in this case. And criminal contempt has obvious limitations as a sanction when the defendant is charged with a crime so serious that a very severe sentence such as death or life imprisonment is likely to be imposed. In such a case the defendant might not be affected by a mere contempt sentence when he ultimately faces a far more serious sanction. Nevertheless, the contempt remedy should be borne in mind by a judge in the circumstances of this case.

Another aspect of the contempt remedy is the judge's power, when exercised consistently with state and federal law, to imprison an unruly defendant such as Allen for civil contempt and discontinue the trial until such time as the defendant promises to behave himself. This procedure is consistent with the defendant's right to be present at trial, and yet it avoids the serious shortcomings of the use of shackles and gags. It must be recognized, however, that a defendant might conceivably, as a matter of calculated strategy, elect to spend a prolonged period in confinement for contempt in the hope that adverse witnesses might be unavailable after a lapse of time. A court must guard against allowing a defendant to profit from his own wrong in this way.

III

The trial court in this case decided under the circumstances to remove the defendant from the courtroom and to continue his trial in his absence until and unless he promised to conduct himself in a manner befitting an American courtroom. As we said earlier, we find nothing unconstitutional about this procedure. Allen's behavior was clearly of such an extreme and aggravated nature as to justify either his removal from the courtroom or his total physical restraint. Prior to his removal he was repeatedly warned by the trial judge

that he would be removed from the courtroom if he persisted in his unruly conduct, and, as Judge Hastings observed in his dissenting opinion, the record demonstrates that Allen would not have been at all dissuaded by the trial judge's use of his criminal contempt powers. Allen was constantly informed that he could return to the trial when he would agree to conduct himself in an orderly manner. Under these circumstances we hold that Allen lost his right guaranteed by the Sixth and Fourteenth Amendments to be present throughout his trial.

IV

It is not pleasant to hold that the respondent Allen was properly banished from the court for a part of his own trial. But our courts, palladiums of liberty as they are, cannot be treated disrespectfully with impunity. Nor can the accused be permitted by his disruptive conduct indefinitely to avoid being tried on the charges brought against him. It would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes. As guardians of the public welfare, our state and federal judicial systems strive to administer equal justice to the rich and the poor, the good and the bad, the native and foreign born of every race, nationality and religion. Being manned by humans, the courts are not perfect and are bound to make some errors. But, if our courts are to remain what the Founders intended, the citadels of justice, their proceedings cannot and must not be infected with the sort of scurrilous, abusive language and conduct paraded before the Illinois trial judge in this case. The record shows that the Illinois judge at all times conducted himself with that dignity, decorum, and patience that

befits a judge. Even in holding that the trial judge had erred, the Court of Appeals praised his "commendable patience under severe provocation."

We do not hold that removing this defendant from his own trial was the only way the Illinois judge could have constitutionally solved the problem he had. We do hold, however, that there is nothing whatever in this record to show that the judge did not act completely within his discretion. Deplorable as it is to remove a man from his own trial, even for a short time, we hold that the judge did not commit legal error in doing what he did.

The judgment of the Court of Appeals is

Reversed.

D Kiel 2a

SUPREME COURT OF THE UNITED STATES

No. 606.—October Term, 1969

State of Illinois, Petitioner,
v.
William Allen.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[March 31, 1970]

Mr. Justice Brennan, concurring.

The safeguards that the Constitution accords to criminal defendants presuppose that government has a sovereign prerogative to put on trial those accused in good faith of violating valid laws. Constitutional power to bring an accused to trial is fundamental to a scheme of "ordered liberty" and prerequisite to social justice and peace. History has known the breakdown of lawful penal authority—the feud, the vendetta, and the terror of penalties meted out by mobs or roving bands of vigilantes. It has known, too, the perversion of that authority. In some societies the penal arm of the state has reached individual men through secret denunciation followed by summary punishment. In others the solemn power of condemnation has been confided to the caprice of tyrants. Down the corridors of history have echoed the cries of innocent men convicted by other irrational or arbitrary procedures. These are some of the alternatives history offers to the procedure adopted by our Constitution. The right of a defendant to trial—to trial by jury—has long been cherished by our people as a vital restraint on the penal authority of government. And it has never been doubted that under our constitutional traditions trial in accordance with the Constitution is the proper mode by which government exercises that authority.

Lincoln said this Nation was "conceived in liberty and dedicated to the proposition that all men are created equal." The Founders' dream of a society where all men are free and equal has not been easy to realize. The degree of liberty and equality that exists today has been the product of unceasing struggle and sacrifice. Much remains to be done—so much that the very institutions of our society have come under challenge. Hence, today, as in Lincoln's time, a man may ask "whether [this] nation or any nation so conceived and so dedicated can long endure." It cannot endure if the Nation falls short on the guarantees of liberty, justice, and equality embodied in our founding documents. But it also cannot endure if we allow our precious heritage of ordered liberty to be ripped apart amid the sound and fury of our time. It cannot endure if in individual cases the claims of social peace and order on the one side and of personal liberty on the other cannot be mutually resolved in the forum designated by the Constitution. If that resolution cannot be reached by judicial trial in a court of law, it will be reached elsewhere and by other means, and there will be grave danger that liberty, equality, and the order essential to both will be lost.

The constitutional right of an accused to be present at his trial must be considered in this context. Thus there can be no doubt whatever that the governmental prerogative to proceed with a trial may not be defeated by conduct of the accused that prevents the trial from going forward. Almost a half century ago this Court in *Diaz* v. *United States*, 223 U. S. 442, 457–458 (1912), approved what I believe is the governing principle. We there quoted from *Falk* v. *United States*, 15 App. D. C. 446 (1899), the case of an accused who appeared at his trial but fled the jurisdiction before it was completed. The court proceeded in his absence, and a verdict of guilty was returned. In affirming the conviction over

the accused's objection that he could not be convicted in his absence, the Court of Appeals for the District of Columbia said:

> "It does not seem to us to be consonant with the dictates of common sense that an accused person . . . should be at liberty, whenever he pleases, . . . to break up a trial already commenced. The practical result of such a proposition, if allowed to be law, would be to prevent any trial whatever until the accused person himself should be pleased to permit it. . . . This would be a travesty of justice which could not be tolerated . . . . [W]e do not think that any rule of law or constitutional principle leads us to any conclusion that would be so disastrous as well to the administration of justice as to the true interests of civil liberty. . . .
>
> "The question is one of broad public policy, whether an accused person, placed upon trial for crime and protected by all the safeguards with which the humanity of our present criminal law sedulously surrounds him, can with impunity defy the processes of that law, paralyze the proceedings of courts and juries and turn them into a solemn farce, and ultimately compel society, for its own safety, to restrict the operation of the principle of personal liberty. Neither in criminal nor in civil cases will the law allow a person to take advantage of his own wrong."

To allow the disruptive activities of a defendant like respondent to prevent his trial is to allow him to profit from his own wrong. The Constitution would protect none of us if it prevented the courts from acting to preserve the very processes which the Constitution itself prescribes.

Of course, no action against an unruly defendant is permissible except after he has been fully and fairly informed that his conduct is wrong and intolerable, and warned of the possible consequences of continued misbehavior. The record makes clear that respondent was so informed and warned in this case. Thus there can be no doubt that respondent, by persisting in his reprehensible conduct, surrendered his right to be present at the trial.

As the Court points out, several remedies are available to the judge faced with a defendant bent on disrupting his trial. He can have him bound, shackled, and gagged; he can hold him in civil or criminal contempt; he can exclude him from the trial and carry on in his absence. No doubt other methods can be devised. I join the Court's opinion and agree that the Constitution does not require or prohibit the adoption of any of these courses. The constitutional right to be present can be surrendered if it is abused for the purpose of frustrating the trial. Due process does not require the presence of the defendant if his presence means that there will be no orderly process at all. However, I also agree with the Court that these three methods are not equally acceptable. In particular, shackling and gagging a defendant is surely the least of them. It offends not only judicial dignity and decorum, but also that respect for the individual which is the lifeblood of the law.

I would add only that when a defendant is excluded from his trial, the court should make reasonable efforts to enable him to communicate with his attorney and, if possible, to keep apprised of the progress of his trial. Once the court has removed the contumacious defendant, it is not weakness to mitigate the disadvantages of his expulsion as far as technologically possible in the circumstances.

Official 2B

SUPREME COURT OF THE UNITED STATES

No. 606.—October Term, 1969

State of Illinois, Petitioner, v. William Allen. | On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[March 31, 1970]

Mr. Justice Douglas.

I agree with the Court that a criminal trial, in the constitutional sense, cannot take place where the courtroom is a bedlam and either the accused or the judge is hurling epithets at the other. A courtroom is a hallowed place where trials must proceed with dignity and not become occasions for entertainment by the participants, by extraneous persons, by modern mass media or otherwise.

My difficulty is not with the basic hypothesis of this decision, but with the use of this case to establish the appropriate guidelines for judicial control.

This is a state case, the trial having taken place nearly 13 years ago. That elapse of time is not necessarily a barrier to a challenge of the constitutionality of a criminal conviction. But in this case it should be.

There is more than an intimation in the present record that the defendant was a mental case. The passage of time since 1957, the date of the trial, makes it, however, impossible to determine what the mental condition of the defendant was at that time. The fact that a defendant has been found to understand "the nature and object of the proceedings against him" and thus competent to stand trial [1] does not answer the difficult questions as to what a trial judge should do with an otherwise mentally ill defendant who creates a court-

[1] See n. 5, *infra*.

room disturbance. What a judge should do with a defendant whose courtroom antics may not be volitional is a perplexing problem which we should not reach except on a clear record. This defendant had no lawyer and refused one, though the trial judge properly insisted that a member of the bar be present to represent him. He tried to be his own lawyer and what transpired was pathetic, as well as disgusting and disgraceful.

We should not reach the merits but should reverse the case for staleness of the record and affirm the denial of relief by the District Court. After all, behind the issuance of a writ of habeas corpus is the exercise of an informed discretion. The question, how to proceed in a criminal case against a defendant who is a mental case, should be resolved only on a full and adequate record.

Our real problems of this type lie not with this case but with other kinds of trials. *First* are the political trials. They frequently recur in our history [*] and insofar

[*] From *Spies* v. *People*, 122 Ill. 1, involving the Haymarket Riots, *In re Debs*, 158 U. S. 568, involving the Pullman strike, *Mooney* v. *Holohan*, 294 U. S. 103, involving the copper strikes of 1917; *Sacco & Vanzetti* v. *State*, 255 Mass. 369, 259 Mass. 128, 261 Mass. 12, involving the Red scare of the 20's: to *Dennis* v. *United States*, 341 U. S. 494, involving an agreement to teach Marxism.

As to the Haymarket riot resulting in the *Spies* case, see Commons, History of Labor in the United States, pp. 386 *et seq.* (1918); Swindler, Court & Constitution in the 20th Century, cc. 3 and 4 (1969).

As to the Pullman strike and the *Debs* case, see Pfeffer, This Honorable Court, pp. 215–216 (1966); Lindsey, The Pullman Strike, cc. XII and XIII (1942); Commons, History of Labor in the United States, pp. 502–508 (1918).

As to the *Mooney* case, see the January 18, 1922, issue of *The New Republic*; Frost, The Mooney Case (1968).

As to the *Sacco-Vanzetti* case see Fraenkel, The Sacco-Vanzetti Case; Frankfurter, The Case of Sacco-Vanzetti.

As to the repression of teaching involved in the *Dennis* case, see Kirchheimer, Political Justice, pp. 132–158 (1961).

as they take place in federal courts we have broad supervisory powers over them. That is one setting where the question arises whether the accused has rights of confrontation that the law invades at its peril.

In Anglo-American law, great injustices have at times been done to unpopular minorities by judges, as well as by prosecutors. I refer to London in 1670 when William Penn, the gentle Quaker, was tried for causing a riot when all that he did was to preach a sermon on Grace Church Street, his church having been closed under the Conventicle Act:

> "Penn. I affirm I have broken no law, now am I Guilty of the indictment that is laid to my charge; and to the end the bench, the jury, and myself, with these that hear us, may have a more direct understanding of this procedure, I desire you would let me know by what law it is you prosecute me, and upon what law you ground my indictment.
>
> "Recorder. Upon the common-law.
>
> "Penn. Where is that common-law?
>
> "Recorder. You must not think that I am able to run up so many years, and over so many adjudged cases, which we call common-law, to answer your curiosity.
>
> "Penn. This answer I am sure is very short of my question, for if it be common, it should not be so hard to produce.
>
> "Recorder. Sir, will you plead to your indictment?
>
> "Penn. Shall I plead to an Indictment that hath no foundation in law? If it contain that law you say I have broken, why should you decline to produce that law, since it will be impossible for the jury to determine, or agree to bring in their verdict, who have not the law produced, by which they

should measure the truth of this indictment, and the guilt, or contrary of my fact?

"Recorder. You are a saucy fellow, speak to the Indictment.

"Penn. I say, it is my place to speak to matter of law; I am arraigned a prisoner; my liberty, which is next to life itself, is now concerned: you are many mouths and ears against me, and if I must not be allowed to make the best of my case, it is hard, I say again, unless you show me, and the people, the law you ground your indictment upon, I shall take it for granted your proceedings are merely arbitrary.

. . . . . .

"Recorder. The question is, whether you are Guilty of this Indictment?

"Penn. The question is not, whether I am Guilty of this Indictment, but whether this Indictment be legal. It is too general and imperfect an answer, to say it is the common-law, unless we knew both where and what it is. For where there is no law, there is no transgression; and that law which is not in being, is so far from being common, that it is no law at all.

"Recorder. You are an impertinent fellow, will you teach the court what law is? It is 'Lex non scripta,' that which many have studied 30 or 40 years to know, and would you have me to tell you in a moment?

"Penn. Certainly, if the common law be so hard to be understood, it is far from being very common; but if the lord Coke in his Institutes be of any consideration, he tells us, That Common-Law is common right, and that Common Right is the Great Charter-Privileges. . . .

"Recorder. Sir, you are a troublesome fellow, and it is not for the honour of the court to suffer you to go on.

"Penn. I have asked but one question, and you have not answered me; though the rights and privileges of every Englishman be concerned in it.

"Recorder. If I should suffer you to ask questions till to-morrow morning, you would be never the wiser.

"Penn. That is according as the answers are.

"Recorder. Sir, we must not stand to hear you talk all night.

"Penn. I design no affront to the court, but to be heard in my just plea: and I must plainly tell you, that if you will deny me Oyer of that law, which you suggest I have broken, you do at once deny me an acknowledged right, and evidence to the whole world your resolution to sacrifice the privileges of Englishmen to your sinister and arbitrary designs.

"Recorder. Take him away. My lord, if you take not some course with this pestilent fellow, to stop his mouth, we shall not be able to do any thing to night.

"Mayor. Take him away, take him away, turn him into the bale-dock."[3] The Trial of William Penn, 6 How. St. Tr. 951, 958–959.

The panel of judges who tried William Penn were sincere, law-and-order men of their day. Though Penn was acquitted by the jury, he was jailed by the court for his contemptuous conduct. Would we tolerate re-

[3] At Old Bailey, where the William Penn trial was held the baledock (or baildock) was "a small room taken from one of the corners of the court, and left open at the top: in which, during the trials, are put some of the malefactors." Oxford Eng. Dict.

moval of a defendant from the courtroom during a trial because he was insisting on his constitutional rights, albeit vociferously, no matter how obnoxious his philosophy might have been to the bench that tried him? Would we uphold contempt in that situation?

Problems of political indictments and of political judges raise profound questions going to the heart of the social compact. For that compact is two-sided: majorities undertake to press their grievances within limits of the Constitution and in accord with its procedures; minorities agree to abide by constitutional procedures in resisting those claims.

Does the answer to that problem involve defining the procedure for conducting political trials or does it involve the designing of constitutional methods for putting an end to them? This record is singularly inadequate to answer those questions. It will be time enough to resolve those weighty problems when a political trial reaches this Court for review.

Second are trials used by minorities to destroy the existing constitutional system and bring on repressive measures. Radicals on the left historically have used those tactics to incite the extreme right with the calculated design of fostering a regime of repression from which the radicals on the left hope to emerge as the ultimate victor.[4] The left in that role is the provocateur. The Constitution was not designed as an instrument for that form of rough-and-tumble contest. The social compact has room for tolerance, patience, and restraint, but not for sabotage and violence. Trials involving that spectacle strike at the very heart of constitutional government.

[4] As respects the strategy of German Communists *vis-à-vis* the Nazis in the 1930's, see Heiden, Der Fuehrer, pp. 461, 462, 525, 551–552 (1944).

I would not try to provide in this case the guidelines for those two strikingly different types of cases. The case presented here is the classical criminal case without any political or subversive overtones. It involves a defendant who was a sick person and who may or may not have been insane in the classical sense [5] but who apparently had a diseased mind. And, as I have said, the record is so stale that it is now much too late to find out what the true facts really were.

---

[5] In a 1956 pretrial sanity hearing, Allen was found to be incompetent to stand trial. Approximately a year later, however, on October 19, 1957, in a second competency hearing, he was declared sane and competent to stand trial.

Allen's sister and brother testified in Allen's behalf at the trial. They recited instances of Allen's unusual past behavior and stated that he was confined to a mental institution in 1953, although no reason for this latter confinement was given. A doctor called by the prosecution testified that he had examined Allen shortly after the commission of the crime which took place on August 12, 1956, and on other subsequent occasions, and that, in his opinion, Allen was sane at the time of each examination. This evidence was admitted on the question of Allen's sanity at the time of the offense. The jury found him sane at that time and the Illinois Supreme Court affirmed that finding. See *People* v. *Allen*, 37 Ill. 2d 167.

At the time of Allen's trial in 1957, the tests in Illinois for the defendant's sanity at the time of the criminal act were the M'Naghten Rules supplemented by the so-called "irresistible impulse test." *People* v. *Carpenter*, 11 Ill. 2d 60, 142 N. E. 2d 11. The tests for determining a defendant's sanity at the time of trial were that "[h]e should be capable of understanding the nature and object of the proceedings against him, his own condition in reference to such proceedings, and have sufficient mind to conduct his defense in a rational and reasonable manner," and, further, that "he should be capable of co-operating with his counsel to the end that any available defenses may be interposed." *People* v. *Burson*, 11 Ill. 2d 360, 369, — N. E. 2d —, —.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Walters
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Soyars
Tele. Room
Holmes
Gandy

TO : Mr. Mohr

DATE: March 19, 1970

FROM : J. J. Casper

SUBJECT: SECURITY OF SUPREME COURT BUILDING CONCERNING BOMBINGS AND BOMB THREATS

In accordance with the Director's instructions, on the afternoon of March 19, I went to the Supreme Court Building and conferred with [redacted] and [redacted] concerning the security of the Supreme Court Building and Justices.

[redacted] reviewed the security which his force provides for the building and the Justices while they are in the building. After this, a complete tour of the building was afforded explaining the security coverage. I sat down with these officers and outlined the necessity for their having a definite written plan of action and of notification in the case of a bomb threat. It was pointed out to them the necessity of their having a complete plan of action from the time a bomb threat is received through the discovery of such a device and thereafter the securing of the area until the bomb experts arrive to handle the disposal.

[redacted] stated that he had such a plan; whereupon, I told him that he should test it, evaluate it, and make absolutely certain that it is workable and effective. Many suggestions were given to [redacted] as he discussed his plan of action should a bomb threat be received. For example [redacted]

[redacted] said he had not thought of this and agreed it was a good idea and he would take this action.

[redacted]

ST-115 REC-126 62-27585-259

1 - Mr. DeLoach
1 - Mr. Rosen
JJC/hcv
(8)
1 - Mr. Sullivan
1 - Mr. Callahan
1 - Mr. Conrad
1 - Mr. Bishop

APR 8 1970

(CONTINUED - OVER)

Letter Judge Lamm 3-19-70

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FEDERAL BUREAU OF INVESTIGATION

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Memo J. J. Casper to Mr. Mohr
Re: Security of Supreme Court Building
Concerning Bombings and Bomb Threats

b2,b7D [redacted]

b2,b7D [redacted]

b2,b7D b6,b7C [redacted]

RECOMMENDATION:

Submitted for information.

ST-115

REC-126 62-27585-259

b6, b7C

March 19, 1970

Dear Ed:

I am enclosing herewith two Xerox copies of a memorandum which I have just received from Assistant Director J. J. Casper, who, today, conferred with [redacted] b6, b7C of the Supreme Court Building. You may want to furnish one of the two enclosed copies to the Chief Justice for his information, as it is obvious that there is not as complete security for the Supreme Court Building and the Justices as there should be.

I expect to have ready for you by next Monday suggestions in regard to improving security in all Federal Court Buildings throughout the country.

If I can be of any further assistance, do not hesitate to let me know.

Sincerely,

Edgar

[redacted] b6, b7C

SENT FROM D. O.
TIME 5:34 PM
DATE 3-19-70
BY ...

Enclosures (2)

Honorable Edward A. Tamm
Circuit Judge
District of Columbia Circuit
U. S. Court of Appeals
Washington, D. C. 20001

BY MESSENGER

JEH:EDM (3)

Tolson
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Gandy

APR 1 1970

MAIL ROOM TELETYPE UNIT

OPTIONAL FORM NO. 10 5010-106
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Walters
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Soyars
Tele. Room
Holmes
Gandy

TO : Mr. Mohr

DATE: 4/13/70

FROM : J. J. Casper

SUBJECT: KILLING A FEDERAL OFFICER
JUSTICES OF THE SUPREME COURT

The General Investigative Division raised a question on Title 18, U. S. Code, section 1114, entitled "Protection of Officers and Employees of the United States" and which reads in pertinent part as follows: "Whoever kills any judge of the United States...shall be punished as provided...." The section does not mention the Chief Justice of the United States or the position of Justice of the Supreme Court. Question: Would the murder of the Chief Justice or of any associate justice be punishable under this section? We have concluded that it would, for the reasons shown below.

The term "judge," which the section uses, is generic; it includes a justice. According to Bouvier's Law Dictionary, a judge is a "public officer lawfully appointed to decide litigated questions according to law" and "the judges of the federal and state supreme courts are properly styled 'justices.'" According to Black's Law Dictionary, Revised Fourth Edition, the term "justice" is "the title given in England to the judges of the king's bench and the common pleas, and in America to the judges of the supreme court of the United States and of the appellate courts of many of the states."

It has been held in New York and in Georgia, where the question of the meaning of the words has been raised, that "justice" and "judge" are interchangeable. See Words and Phrases on judge and on justice.

The United States Code provides for the Chief Justice and the associate justices of the Supreme Court to be assigned to Federal circuits. In each of the Federal circuits "the circuit justice and justices or judges designated or assigned shall also be competent to sit as judges of the court." Title 28, U.S. Code, sections 42, 43.

62-27585-
NOT RECORDED
29 APR 17 1970

It was while Justice Field was performing his duty as a circuit judge that there arose one of the landmark cases on power of the Federal government to protect judges. Justice Field journeyed from the Supreme Court in Washington to

1 - Mr. DeLoach
1 - Mr. Rosen (Attention: [redacted])

(CONTINUED - OVER)

[redacted] b6 b7C

57 APR 22 1970

12 APR 15 1970

California where he was to sit as a circuit judge. Having heard of a plot to kill Justice Field, the Attorney General assigned Deputy United States Marshal Neagle to accompany him. While in a hotel shortly after arrival in California, Justice Field was attacked by a man whom Deputy Marshal Neagle then shot and killed. Neagle was jailed by California authorities, to be tried for murder. He brought habeas corpus and it was contended by California - and correctly so - that there was no Federal statute whatsoever which authorized Neagle to protect Justice Field. The Supreme Court of the United States allowed the writ, however, and freed Neagle. By a decision which held, in effect, that even without any statutory authority whatsoever the government of the United States is invested with power to protect itself and that the protection of Justice Field was such a matter. The court opinion uses some language bearing on the present question, as follows: "Mr. Justice Field was a member of the Supreme Court of the United States...But the justices of this court have imposed upon them other duties, the most important of which arise out of the fac that they are also judges of the Circuit Courts of the United States...The justices of the Supreme Court have been members of the Circuit Courts of the United States ever since the organization of the government...It is not supposed that any special Act of Congress exists which authorizes the marshals or deputy marshals of the Unite States in express terms to accompany the judges of the Supreme Court through their circuits and act as a body-guard to them to defend them against malicious assaults against their persons...If a person in the situation of Justice Field could have no other guarantee of his personal safety, while engaged in the conscientious discharge of a disagreeable duty, than the fact that if he was murdered his murderer would be subject to the laws of a State and by those laws could be punished, the security would be very insufficient...We do not believe that the government of the United States is this inefficient, or that its Constitution and laws have left the high officers of the government so defenseless and unprotected." Cunningham v. Neagle, 135 U.S. 1 (1890). Note how the opinion of the Supreme Court uses the terms "judge" and "justice" interchangeably, and bases that use on the fact that since the beginning of this government the justices of the Supreme Court have been members of the circuit courts of the United States.

The justices of the Supreme Court, including the Chief Justice, still are members of the circuit courts as stated earlier herein by authority of Title 28, U.S. Code, sections 42, 43. There must be a later designation but the latest we have is in the law books dated October 9, 1967, and shows, for example, that then

Memorandum J. J. Casper to Mr. Mohr
Re: Killing a Federal Officer
Justices of the Supreme Court

Chief Justice Earl Warren was "allotted" to the District of Columbia Circuit, Justice Abe Fortas was allotted to the First Circuit, and so on. Because there are more circuits than justices two of them were allotted to two different circuits each.

RECOMMENDATION:

That this memorandum be referred to the General Investigative Division.

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FBI/DOJ

OPTIONAL FORM NO. 10 5010-106
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

Tolson
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Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Soyars
Tele. Room
Holmes
Gandy

TO : Mr. Gale

DATE: 6-1-70

FROM : W. V. Cleveland

SUBJECT: [redacted]
REQUEST FOR NAME CHECK FROM
CHIEF JUSTICE WARREN E. BURGER,
SUPREME COURT

b6, b7C

By letter dated 5-25-70 (received 5-28-70), Chief Justice Warren E. Burger of the Supreme Court requested a name check concerning one [redacted] of Washington, D. C., who is under consideration for employment as a messenger for Judge Blackmun, whose nomination as an Associate Justice of the Supreme Court has been confirmed by the Senate.

We telephonically contacted [redacted] who advised he was born [redacted] A search of the Bureau files, including the Identification Division, disclosed no information identifiable with him [redacted]

It is noted that in his letter, the Chief Justice states we have offered to check applicants for employment at the Supreme Court. There appears to be some misunderstanding in this connection. We did agree to investigate two individuals for Associate Justice Byron White. One of these was [redacted] for the position of [redacted] United States Courts, and the other was [redacted] of the Supreme Court. We have not agreed to investigate any other applicants for the Supreme Court.

There is a possibility that the present misunderstanding on the part of the Chief Justice could result in our receiving a flood of requests from the Court.

Enc. sent 6-2-70

1 - Mr. DeLoach
1 - Mr. Bishop
1 - Mr. Gale
1 - Mr. Cleveland
1 - [redacted]

REC 17 62-27585-260

CONTINUED - OVER

b6, b7C

60 JUN 12 1970

Memorandum to Mr. Gale
Re: [redacted]

ACTION:

1) Attached for approval is a letter to the Chief Justice advising that our files contain no information identifiable with [redacted]

2) Should the misunderstanding of the Chief Justice result in our getting a flood of requests, it is felt we should see the Chief Justice and explain to him that there is no provision in the Bureau's budget to handle investigations of Supreme Court staff employees.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

May 25, 1970

Dear Mr. DeLoach:

Judge Blackmun contemplates engaging an applicant for the position of messenger. As you well know the security aspects of the Court are such that we wish again to take advantage of Mr. Hoover's kind offer to check our applicants. Subject to your recommendations it would seem to us that a name check would be adequate at the outset but we will leave that to your judgment.

The name of the applicant is: [redacted]

[redacted]
Washington, D. C.
Home telephone: [redacted]
Business telephone: [redacted]
Presently employed in the Washington [redacted]

[redacted] has been advised that some form of personal check will be in process.

62-27585-261

Thank you for your courtesy and assistance.

Sincerely yours,

Warren E. Burger

[redacted]

Mr. C. D. DeLoach
Assistant to the Director
Federal Bureau of Investigation
Washington, D. C. 20530

June 2, 1970

BY LIAISON

REC-21 62-27585-261

Honorable Warren E. Burger
Chief Justice of the United States
Washington, D. C.

My dear Mr. Chief Justice:

Reference is made to your letter dated May 25, 1970, which requested a name check concerning [redacted]

b6, b7C

The central files of the FBI, including the files of the Identification Division, contain no pertinent identifiable information concerning [redacted]

In view of the above, no further action is contemplated concerning [redacted]

Sincerely yours,

Delivered to [redacted] 6-3-70 WAB

b6, b7C

Tolson
DeLoach
Walters
Mohr
Bishop
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Soyars
Tele. Room
Holmes
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

See memo W. V. Cleveland to Mr. Gale 6-1-70 re [redacted]

b6, b7C

391

59 JUN 16 1970

FBI

Return to Mr. Cornell, Room 1250.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 5, 1970

Dear Mr. Hoover:

We have in hand the Bureau's report covering its obviously very thorough investigation of [redacted] My colleagues and I extend our thanks to you and your organization.

Sincerely yours,

Byron White

Honorable J. Edgar Hoover
Director
Federal Bureau of Investigation
Washington, D. C. 20535

62-27585-262

REC-40

6 JUN 11 1970

JUN 8 1970

JUN 12 1970

56 JUN 17 1970

Mr. [illegible]
Mr. Cal[illegible]
Mr. Conra[illegible]
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

RECORDED COPY FILED IN

August 18, 1970

Director
Federal Bureau of Investigation

WW:LVA:pem
125-016

Will Wilson
Assistant Attorney General
Criminal Division

Assaulting of Federal Officers
Justices of the Supreme Court

This is in response to your memorandum of August 17, 1970 regarding whether the Chief Justice of the United States and the Associate Justices of the Supreme Court are covered by the provisions of 18 U.S.C. 1114.

Our research of the question did not reveal any case law or statutes squarely on this point. A distinction is drawn in 28 U.S.C. 451 between "judge of the United States" and "justice of the United States." However, the statute seems to be inconsistent because it defines "court of the United States" to include the Supreme Court and the courts of appeals and district courts, among others. The Constitution of the United States, Article III, Section 1, states: "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good behaviour . . . ." By law, 28 U.S.C. 42, the Chief Justice and associate justices shall from time to time be allotted as circuit judges among the circuits. Congress has provided, 28 U.S.C. 132, that justices are competent to sit as judges of the district courts.

It is, therefore, our view that the Chief Justice of the United States and Associate Justices of the Supreme Court are included within the provisions of 18 U.S.C. 1114. Accordingly, cases arising under 18 U.S.C. 111 and 1114 in which the Chief Justice or an Associate Justice is the victim should be investigated by the Federal Bureau of Investigation and presented to the Criminal Division as well as the appropriate United States Attorney for prosecutive consideration.

Our review of 18 U.S.C. 1114 in connection with this matter revealed certain defidiencies in the coverage afforded Federal employees. We will endeavor to have these deficiencies resolved by Congressional action.

62-27585-
NOT RECORDED
102 AUG 28 1970

SEP 1 1970

August 19, 1970

PROPOSED CHANGE IN
MANUAL OF INSTRUCTIONS
AND FBI HANDBOOK

Volume II, Section 18, page 1, of the Manual of Instructions should be amended to read as follows:

Section 1114. Protection of . . . of this title." (The Department of Justice advises in its opinion Supreme Court Justices are included in the category of "judge of the United States.")

Part III, Chapter V, page 14, Item 2B, of the FBI Handbook should be amended to read as follows:

1. Any judge of U. S. (inclusive of Supreme Court)

62-27585-

NOT RECORDED
102 AUG 28 1970

56 AUG 31 1970

September 8, 1970

Honorable Warren E. Burger
Chief Justice of the United States
Washington, D. C. 20543

Dear Warren:

This is in response to our further conversation about measures to enhance the security of the United States Supreme Court Building and its occupants.

Assistant Director Joseph J. Casper of my staff met with [redacted] the Supreme Court Building police staff, on September 2, 1970, to discuss further problems of adequate security for the Supreme Court Building and its occupants. Attached is a very brief resume of the major points considered during the conversation between Messrs. Casper and [redacted] We have arranged to afford an eight-hour training course on this subject matter to each member of [redacted]'s force at a mutually agreeable time.

Relative to our discussion concerning your driver, who has now been commissioned as a member of [redacted]'s staff and who will act as a guard, I thought you might like to consider having this individual commissioned by the Attorney General as a Deputy United States Marshal. I offer this suggestion since I note the authority for the Supreme Court Building police force as set forth in Title 40, Section 13f through Section 13p, limits their police powers to the Supreme Court Building and grounds and adjacent streets. There is ample precedent for my suggestion, going all the way back to the decision handed down by the Supreme Court in 1890 in the case entitled Cunningham v. Neagle, 135 U.S. 1 (1890).

REC-19 62-27585-463
EX-109
SEP 10 1970

Tolson
Sullivan
Mohr
Bishop
Brennan, C.D.
Callahan
Casper
Conrad
Felt
Gale
Rosen
Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

1 - Mr. Sullivan
1 - Mr. C. D. Brennan
1 - Mr. Callahan
1 - Mr. Rosen
1 - [redacted]

54 SEP 10 1970

ENCLOSURE

NOTE: Based on memo Casper to Mohr, 9/4/70, re: "Security of Supreme Court Building and Justices of the Supreme Court," [redacted]

MAIL ROOM ☐ TELETYPE UNIT ☐

Honorable Warren E. Burger

I hope that this material will be of assistance to you and if I can aid you in any other way, please do not hesitate to call upon me.

Sincerely,

Edgar

Enclosure

September 8, 1970

SECURITY - UNITED STATES SUPREME COURT

Building

1. [redacted]
2. [redacted]
3. [redacted]
4. [redacted]

b2, b7D

Justices

In view of attacks against members of the judiciary by means of firearms and bombings, as well as reported threats to kidnap government officials, consideration should be given to affording the Justices protective service at their residences and during their travels.

1 - Mr. Sullivan
1 - Mr. C. D. Brennan
1 - Mr. Callahan
1 - Mr. Rosen
(1) [redacted]

b6 b7C

Tolson
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Mohr
Bishop
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Callahan
Casper
Conrad
Felt
Gale
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Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

NOTE: Based on memo Casper to Mohr, 9/4/70, re: "Security of Supreme Court Building and Justices of the Supreme Court," [redacted]

b6 b7C

ENCLOSURE

62-27585-263

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
Sullivan
Mohr
Bishop
Brennan, C.D.
Callahan
Conrad
Felt
Gale
Rosen
Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

TO : Mr. Mohr

DATE: September 4, 1970

FROM : J. J. Casper

SUBJECT: SECURITY OF SUPREME COURT BUILDING AND JUSTICES OF THE SUPREME COURT

In accordance with the Director's telephonic instructions to me August 24, 1970, concerning the captioned matter, I received a telephone call on September 2 from [redacted] inviting me to come to the Supreme Court Building to discuss the security of the building and the Justices with him. A meeting was arranged at 1 p. m. on the same date and a conference was held with [redacted] and [redacted] stated he had talked with the Chief Justice who had referred to his conversation with Mr. Hoover and he desired to review the security afforded the Supreme Court Building and the Justices with me.

Supreme Court Building

[redacted] advised that his police force was now at authorized strength and he had implemented several of the suggestions I had discussed with him [redacted]

[redacted]

[redacted]

Enclosure
1 - Mr. Sullivan
1 - Mr. C. D. Brennan
1 - Mr. Callahan
1 - Mr. Rosen
JJC:aga

REC-2 62-27585-264

SI-112 18 SEP 29 1970

CONTINUED OVER

OCT 1 1970

4-750 (Rev. 4-17-85)

XXXXXX
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FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

1 ☒ Deleted under exemption(s) 62, 66, 67C, D with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

1 ☒ The following number is to be used for reference regarding these pages: 62-27585-26 pg 2

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
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FBI/DOJ

Memorandum J. J. Casper to Mr. Mohr
Re: Security of Supreme Court Building and
Justices of the Supreme Court

b6,b7C [redacted] stated that the entire force was greatly concerned about the coming session of the court since the Justices will be considering matters pertaining to the draft and the school bussing issues. They feel that these cases will draw a large number of hippie types or revolutionists to the courtroom who will be dangerous and may even try to disrupt the court processes. In view of this concern I asked if they had ever considered a dress code for people coming into the courtroom while it was in session. [redacted] pointed out that under Chief Justice Vinson they had a dress code but that it was subsequently dropped. It would seem, in view of the police forces' concern, that the Chief Justice might desire to consider the reinstitution of a dress code while the court is in session for the courtroom in order to eliminate the hippie or revoluntionist trying to enter the courtroom in their usual attire.

Supreme Court Building Garage

b2,b6,b7C,D [redacted]

The Outside of the Supreme Court Building

b2,b6,b7C,D [redacted]

Memorandum J. J. Casper to Mr. Mohr
Re: Security of Supreme Court Building and
Justices of the Supreme Court

Security of Supreme Court Justices b2,b6,b7C,D

[redacted]

b6,b7C [redacted] advised me that he was concerned over the authority of his man assigned to protect the Chief Justice and travel with him since, as he understood it, the authority of his men was limited to the Supreme Court Building and grounds and adjacent streets. As a matter of interest, this matter was researched by the Legal Research Unit in the Training Division and Title 40, United States Code, Section 13f through Section 13p provide for the special police of the Supreme Court Building and limit their policing powers to the Supreme Court Building and grounds and adjacent streets. Nowhere in the statutes does it suggest that this force has general police powers beyond these areas. It is inherent in the Constitution that the President has the authority to see that the laws are faithfully executed and is provided with means of fulfilling this obligation through officers of the United States Government. In further researching the matter the Supreme Court in the case of Cunningham v. Neagle, 135 U.S. 1 (1890) examined the problem of judicial protectio and concluded that the court system was not able to provide for its own self-protecti and the matter of protecting judicial officers was one for the President. Specifically this job could be properly fulfilled by a Deputy United States Marshal whose enforcement powers are similar to a local sheriff and whose territorial jurisdiction could b as broad as the nation. It would appear appropriate that we suggest tactfully to the Chief Justice that he arrange with the Attorney General to have his guard commissioned as a Deputy United States Marshal.

Training b6,b7C

[redacted] was informed that the FBI has the capability of furnishi a course of instruction to his force on bomb threats and bombing matters and we were prepared to offer this training to all of his men on such matters as the handlin of bomb threats, recognition of bombs, isolation of the areas where bombs are

located and searching and evacuating buildings. [redacted] was very enthusiastic about this course and arrangements have been made to provide on three different days an eight-hour course to his entire police force of the Supreme Court Building this course of training.

[redacted] indicated that years ago the Supreme Court Police Department used to come to the FBI Ranges at Quantico, Virginia, and be given firearms and defensive tactics training but that due to a shortage of personnel they had not requested such training in recent years. He said that he hoped they would be able in the near future to request such training from the FBI and we would assist him in this regard. He was assured that we would afford the training at a mutually agreeable time and that all he had to do was advise me when his men would be available and appropriate arrangements would be worked out for this training. I also gave [redacted] a copy of the book entitled "Explosives and Bomb Disposal Guide" by Robert R. Lenz for his reading since it contains the latest information as it relates to some of the problems we discussed and it was one of the texts we used in our course.

b6
b7C

General Observations

With the attacks both physical and bombing types on judges it would appear appropriate that the Chief Justice request funds to afford protection and guard service as well as transportation to all members of the Supreme Court. Certainly, if we can afford guard service to embassies of foreign nations we should be able to afford guard service to the members of the Supreme Court in the United States. In addition, in view of the repeated information that we have received indicating that attempts will be made to kidnap governmental officials, these Justices should be provided with government vehicles and guards who will not only chauffeur but travel with them when they are in travel status.

RECOMMENDATIONS:

(1) That I be authorized to plac[redacted] in touch with [redacted] of the FAA.

Approved 9/14/70 OK

WCS

JJC

OVER

RECOMMENDATIONS: (Continued)

(2) That the attached letter be sent to the Chief Justice of the United States Supreme Court enclosing a blind memorandum setting forth matters to be considered by the Chief Justice in evaluating the security needed for the Supreme Court Building and members of the Supreme Court.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Conrad

DATE: 9/15/70

FROM : [redacted]

SUBJECT: SECURITY OF SUPREME COURT BUILDING AND JUSTICES OF THE SUPREME COURT

Tolson
Sullivan
Mohr
Bishop
Brennan, C.D.
Callahan
Casper
Conrad
Felt
Gale
Rosen
Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

[redacted]

In the 9/4/70 memorandum J. J. Casper to Mr. Mohr, captioned as above, mention was made of a police baton, capable of detecting the presence of metal, which was demonstrated to security officers at the Supreme Court Building by a representative of the Motorola Company. The Director inquired, "What does our Laboratory know about this?"

The police baton demonstrated was the FRISKEM night stick manufactured by Infinetics, Inc., 1601 Jessup Street, Wilmington, Delaware. It is one of several metal detecting devices adaptable to police and security work being manufactured and marketed by Infinetics, Inc.

The FRISKEM night stick has the appearance of a conventional night stick but is equipped with a self-contained metal detector which will, when held near a person, indicate the presence of iron or steel objects on that person. The manufacturer claims that with little training the user of a FRISKEM night stick can by observation of the movement of a meter hand in the night stick handle, determine whether the mass of iron detected is small, as a knife or belt buckle, or large, as a gun. Price of this night stick is $99.50. A similar unit with built-in flashlight sells for $124.50.

Enclosure

1 - Mr. Mohr
1 - Mr. Sullivan
1 - Mr. C. D. Brennan
1 - Mr. Callahan
1 - Mr. Casper
1 - Mr. Rosen
1 - Mr. Conrad
1 [redacted]
1 [redacted]

[redacted]

(10)

55 OCT 13 1970

REC

62-27585-265

SEVEN

CONTINUED - OVER

Memorandum to Mr. Conrad
Re: SECURITY OF SUPREME COURT BUILDING AND
JUSTICES OF THE SUPREME COURT

The FRISKEM night stick can be adjusted by means of a sensitivity control to detect metal on a person when held at a distance of two to three feet from the person. It must be noted that this device is a metal detector and not a weapon detector per se. The user must determine by other means the exact nature of the object causing the FRISKEM detector to indicate the presence of iron or steel.

Attached is a photograph of the FRISKEM night stick held by an airline terminal guard. Also shown in the photograph is a portable walk-through magnetic detection station which, according to Infinetics, Inc., has been used and evaluated by Pan American Airlines at Kennedy International Airport. The walk-through detection station functions in a manner similar to the FRISKEM night stick.

ACTION:

For information.

[redacted]
SALEM, OREGON 97302

August 25, 1970

Mr. Sullivan
Mr. Mohr
Mr. Bishop
Mr. Brennan CD
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Tavel
Mr. Walters
Mr. Sayers
Tele. Room
Miss Holmes
Miss Gandy

Mr. J. Edgar Hoover
Director, Federal Bureau of Investigation
Washington, D. C. 20535

[redacted]

Dear Mr. Hoover:

A rereading of your book "On Communism" emboldened me to send this letter. As a sort of self-introduction I attach an autographed copy of my little book on Magna Carta with its foreward by the truly lamented Everett Dirksen.

The annexed sheets are a brief excerpt regarding the F.B.I. from Chapter Six of an unpublished manuscript on the product of the Supreme Court of recent years, before Burger. Chapter Six runs about 70 pages on the Court and Communism touching on about 20 of its cases.

The book is critical of decisions generally during the recent decade, largely based on dissenting opinion cases, but is wholly impersonal, not blaming or even naming a single justice involved.

Any suggestion on the excerpt and generally on publishing such a book would be deeply appreciated.

Respectfully,

[redacted]

Attachment

REC-49 62-27585-266
ST-113
OCT 1 1970

EXP PROC
SEP 9 1970

ENCLOSURE

California Companions

Twain Harte, a village in the glorious mountains of California, was, perhaps, named after Mark Twain and Bret Harte, two tellers of tall tales of the glorious West. They were real Americans, the bold, honest breed that made America great. Their shades may have observed with disquiet the secluded cabin there, with Shirley Kremen, Samuel Coleman, Sidney Steinberg and one "Thompson" in occupancy. Thompson and Steinberg were named as fugitives from justice, indicted for allegedly advocating destruction of government by force and violence. Kremen v US 353 US 346 and the report of the appeals court below, 231 Federal Reporter Second 155.

For 24 hours, FBI agents kept the cabin under surveillance. Then they made the arrest, finding Thompson and Steinberg outside and Shirley Kremen and Samuel Coleman

62-107895-266

ENCLOSURE

inside. In due course, all four were convicted of being or harboring fugitives from justice. Their own lawyer later referred to them as "these communists." (231 Fed. 2d, 155) according to the opinion in the Court of Appeals, which referred to the case as a "depressing tale of lies, disguises, and aliases resorted to by a group of seasoned subversives --" This book knows nothing of the real facts.

The Supreme Court opinion carefully omitted any mention of whether the four were such and that Thompson and Steinberg had been indicted under the Smith Anti-Communist Law. Instead it used the sympathetic title of "fugitives." The Supreme Court opinion is devoted mainly to attacking the action of the FBI agents.

The FBI men went to the cabin with a warrant for Coleman and Steinberg. There they found the whole group living at the cottage rented under a different name. The agents considered it their duty to arrest the other two for the crime they considered as committed under their very eyes, the crime of "harboring" fugitives from arrest. That called for evidence that they all had been inhabiting the place together. The evidence consisted of the spare clothing and personal effects in the cabin. So they gathered it all up, with no reported protest from the four accused.

They all were convicted in the United States District Court. The convictions were affirmed in the United States District Court. The convictions were affirmed in the United States Court of Appeals. Then the Supreme Court took over the case, giving as its reason for its special attention "the unusual character of the search and seizure." (p.347).

Then it refers to an "exhaustive search" of the cabin. Just who was exhausted is not indicated. If the cabin was like most mountain rentals, it probably took about two twists of the eyeballs to search it all.

And what was unusual about the seizure is not apparent.

The officers just gathered up the clothes and personal effects. There was precisely the evidence needed to confirm information gained during the 24 hours of surveillance. No furniture was listed as removed. It seems too clear for argument that there was absolutely nothing unusual about either the search or the seizure.

What reason does the majority present for reversing the conviction of these alleged "seasoned subversives?" No law is cited. No violation of any law is mentioned. No reference to any clause of the Constitution appears. All the opinion says is:

> "The seizure of the entire contents of the house and its removal some two hundred miles away to FBI offices for the purpose of examination is beyond the sanction of our cæs."

This raises a serious question. The Court has no power to sanction arrests or seizures. There is not a word anywhere in any law creating any judicial "sanctioning" power. They are judges, not legislators. The powers of the FBI do not come from the Supreme Court. The remark is no legal excuse for reversing any conviction.

The short opinion winds up with the queer statement, that seems to turn the law and facts around:

> "While the evidence seized from the persons of the petitioners might have been legally admissible, the introduction against each of petitioners of some items seized in the house in the manner aforesaid renders the guilty verdicts illegal."

The only thing mentioned as found on the persons were "documents". How would they prove that the four were occupying the refuge? On the other hand, the 500-odd items, often petty, of clothes and personal effects and household equipment were precisely the proof of "harboring" and "comforting" mentioned in the statute which reads:

> "18 US Code. §3. Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension --- is an accessory ---."

The complete living set-up was the very evidence needed.

In complaining about the arrest and evidence, the inference that only the Court can "sanction" actions by the FBI, the judges overlooked the fact that Congress "sanctioned" the arrests made without warrants.

> 18 US Code §3052, granted power to the FBI to "---make arrests without warrants for felonies cognizable under the laws of the United States."

It is well recognized law that the power to make arrests includes the power to take custody of

> "--- any articles, evidence --- if they are directly connected with the crime charged---." (1)

The "sanction" to arrest and take the evidence came from the law making power of the Congress of the United States under the United States Constitution, Article I.

Now, it must be asked, why the Court thought it necessary to use 11 pages of the United States Supreme Court reports to list the 500-odd items such as "---4 razor blades -- 1 handkerchief, dirty--1 jar--1 pine cone--1 pair Munsingwear, size 36, long underwear--1 empty soiled white envelope --- 1 bed sheet unmarked --- 1 night gown white --Darling Deb---," etc. They were very saving of space so far as disclosing that the group were described in the court below as communists, half of them indicted under the Anti-Communist law. Was the publication of the FBI meticulously careful inventory intended to draw attention away from the real story?

That ruling against the FBI efforts came down on May 13, 1957.Just three weeks later the Court decided the Jenck's case, where the Supreme Court, in effect, ordered an

exhaustive search

of some FBI files,Jencks v US 353 US 657.

These two cases make a comparison. In the Kremen case the convictions were reversed with the Court saying it was illegal for the FBI to make the search. In the Jencks case the conviction was reversed because a trial judge did not order a search of the FBI files for the accused. The Court's own "constitution" seems, at times, to be a mystifying document.

(1) 79 Corpus Juris Second 796.

Court against Marshall - The Jencks Case

John Marshall, Chief Justice of the United States during 37 formative years, the founder of the original Supreme Court tradition, is the victim in this case. Jencks v US 353 US 657. The Court quoted Marshall in support of the ruling to aid Jencks. It pulled a few sentences out of context and to rule contrary to the Marshall ruling,as fully explained later in this story.

Jencks was president of one of the Mine, Mill and Smelters unions. To have important statutory privileges for the union, Jencks made an affidavit that "he was not on April 2, 1950, a member of the Communist Party or affiliated with such Party." (p. 659). He was convicted for false swearing in making such affidavit. The conviction was affirmed by the United States Court of Appeal. Then the Supreme Court came to his relief.

Two of the witnesses for the prosectuion were FBI men operating within the Communist Party. They had been making regular reports to the FBI. This information went into the confidential files of the Justice Department.

During the trial the witnesses did not use the files but the lawyers for Jencks demanded their production. The trial judge refused to compel the FBI to produce them. Obviously the files would include much material having no bearing on the Jencks case and which might by disclosure injure many innocent people as well as hamper future surveillance. The opinion stated that the Supreme Court had previously ruled that it was up to the trial judge to decide upon production of such files. (p.668). "This Court held in Goldman v United States, 316 US 129, 132, that the trial judge had discretion to deny inspection---". With no hesitation, it calmly declared the opposite:

> "We now hold that the petitioner was entitled to an order directing the Government to produce for inspection all reports of ---."

The Court made no pretense that any law so required. Instead it just cited "our standards". No one knows what such "standards" are. The Constitution does not mention the

Court's making "standards".

Next the opinion said the "practice" of producing government documents for the trial judge to inspect and decide whether to disclose is "disapproved". There is nothing in the Constitution or law giving the Court or any four judges the "veto" power to disapprove law.

> "This fashions a new rule of evidence which is foreign to our federal jurisprudence. The rule has always been to the contrary."

said the dissenting opinion: (page 680).

> "Every federal judge and every lawyer of federal experience knows that it is not the present rule."
>
> "Even the defense attorneys did not have the temerity to ask for such a sweeping decision."

The Court volunteered more comfort to the suspect than he or his attorney had the gall to ask.Not only was such action illegal, but it was injurious according to J. Edgar Hoover, as quoted in the dissent: (p. 683)

> "If spread upon the record, criminals, foreign agents, subversives, and others would be forwarned and would seek methods to carry out their activities --- and thus defeat the very purpose for which the FBI was created."

Strangely enough, neither side of the Court referred to the law of Congress directly relating to the use of FBI files. Title 5, US Code S22, expressly authorized the Attorney General (Department of Justice) to make regulations respecting:

> "--- the custody, use and preservation of the records, papers and property appertaining to it."

The Department of Justice, by Order #3229, had probibited disclosure of such documents

> "--- except at the discretion of the Attorney General."

That rule was duly filed and published and was binding on Supreme Court judges.

The rule of the Attorney General was simply an affirmation of a long standing general rule whereby executive departments, under the President, are at liberty to keep information con-

fidential in their discretion. This is the fact that the Court withheld in quoting John Marshall (footnote pages 668, 669).

Marshall refused to order the production of the very letter referred to in Jenck's case quotation. Marshall decided that the Executive did not have to produce it. Marshall recognized without question the law that all official government papers were privileged against subpoena by a defendant in a criminal case.

When he wrote on the subject, Marshall was sitting as a trial judge on the Aaron Burr treason case. A letter to the president of the United States was involved. Burr's lawyer claimed that it was a private letter and therefore not privileged as an official record. The prosecution claimed that it was a public paper even though addressed to the President personally. Both sides recognized the law that if it was a public file, it could not be produced against the will of the executive.

Said Marshall (US v Burr, 25 Federal Cases 187 at page 192)"

> "I do not think that a privilege does exist to withhold private letters of a certain description. The reason is this. Letters to the president in his private character, are often written to him in consequence of his public character and may relate to public concerns. Such a letter though it be a private one, seems to take on the character of an official paper, and to be such as ought not be forced into public view ---. The president may himself state the particular reasons which may have induced him to withhold a paper, and the court would unquestionably allow their full force to those reasons."

Marshall did not order the production even of what appeared on its face to be unofficial. He left it to the discretion of the executive. Thereafter the president sent a copy excepting such parts as he deemed ought not be made public.

Why the Court chose to use a sentence from the revered John Marshall to rule in effect opposite John Marshall remains a judicial mystery if not a judicial disgrace. One other little mystery is the final twist the Court gave to the Jencks case.

REC-49

gm 62-27585-266

September 11, 1970

[redacted]
Salem, Oregon 97302

Dear [redacted]

I very much appreciate your thoughtfulness in sending me the inscribed copy of your book with your letter which I received on September 9th. I look forward to having the opportunity to read it.

With respect to the excerpt from your proposed book which you enclosed, I regret I am unable to furnish the evaluations you desire. It is contrary to my long-standing policy to comment on any material not prepared by personnel of this Bureau.

Sincerely yours,

J. Edgar Hoover

MAILED 8
SEP 14 1970
COMM-FBI

NOTE: Bufiles disclose prior correspondence with [redacted], last outgoing 10-17-68 in response to his letter praising the Director, Following approval, this letter should be routed to the Legal Research Unit, Training Division for its information regarding the evaluations made by the author of decisions of the Supreme Court. For purposes of this reply no review was made of the cases mentioned.

Tolson
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Bishop
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Soyars
Tele. Room
Holmes
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

10:37 a.m. September 28, 1970

MEMORANDUM FOR MR. TOLSON
MR. MOHR
MR. BISHOP
MR. CALLAHAN
MR. CASPER

Supreme Court

Chief Justice Warren E. Burger called. I asked how his back was and he said it has improved somewhat, those things are slow healing. I said I know they are. He said he has had trouble with his all of his life and he guessed it was that he slept in too soft a bed. I told him I used to have that trouble but now I sleep on a hard bed, and he said he does, too, at home.

[redacted]

I advised the Chief Justice that I spoke to the President about the conversation we had about the plane. I related that the President was amazed and said it was utterly ridiculous; that we had a lot of airmen flying around the country every day on unimportant matters when the Chief Justice couldn't get a plane. I said, when I spoke to him (the President), (H. R.) Haldeman was present. I said I would suggest the next time he needs a plane, that he call Haldeman; that I think he (Haldeman) can work it out and get it done; that the President was very surprised about it and indicated all the things he does are matters being done at his (the President's) request because it is dealing with the presentation of various matters before conventions and meetings.. The Chief Justice said that is exactly what he is doing; that he doesn't travel much because he doesn't have the time for it; and right now because of the hijackings it would be foolish to be flying around very much. He mentioned that Lyndon Johnson had insisted on this for Earl Warren and they always supplied a plane for him.

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JEH:rm (9)

MAIL ROOM ☐ TELETYPE UNIT ☐

10 OCT 11 1970
62-275-85
NOT RECORDED
170 OCT 5 1970

REC-47

EX 110

9 OCT 9 1970

PERS. REC. UNIT

SENT FROM D. O.
TIME 2:34 PM
DATE 9/28/70
BY PRD

Best Copy Available

Memorandum for Messrs. Tolson, Mohr, Bishop, Callahan and Casper — September 28, 1970

The Chief Justice said it was a curious thing, that it was not just himself; that it was Hugo Black and himself; that they were getting two of them.

I told him the President couldn't believe it; that he sent for Haldeman and asked me to tell him the story and I did. I said the President told Haldeman to look into it and see that proper arrangements are made so what I would do next time he (Burger) has occasion to take a trip, is call Haldeman and just tell him I told him to get in touch with him (Haldeman) when he (Burger) needed to go somewhere. The Chief Justice thanked me.

I told him I wanted to handle it because I knew for him to ask for it would be somewhat embarrassing. I said if he were on a hijacked plane, we would then have to go in and investigate the hijacking; so we save money by having him travel on a government plane. He agreed.

I mentioned all the threats being made now and he stated he just got another one this morning and would send me a copy. He said this was a threat against five judges by a fellow who has been committed to a mental hospital but I know what that means - they will just release him in 90 days. I said to send me a copy of the letter and the name of the institution so I can get a photograph and he can give it to the security people at the Court. He said he would do this.

He mentioned how grateful he was for the help and cooperation my people were giving his. I told him that I told (Joheph J.) Casper to have a meeting with them and go all out. The Chief Justice said he (Casper) had done that. He said he was also following my suggestion and making his driver a special U.S. Marshal; that he is a good man, a 24-year Navy man. I told him I had just had my driver given firearms training. He said they have a range there somewhere and he (the driver) is going to go over periodically to refresh himself. I told him (the Chief Justice) that he (the driver) can use our range anytime he wants; that we have an indoor range here for our men to use. The Chief Justice thanked me and said should he just contact Casper about this and I told him yes, that I would advise Casper about it.

10:44 a.m.

I called Assistant Director Joseph J. Casper and told him I had just talked to the Chief Justice and the driver of his car, who has been deputized as a Deputy U. S. Marshal in order to carry a gun, is a former Navy man and he may call down here sometime to practice on our range here in the building. I told Mr. Casper if he (the driver) calls for him (Casper) to make arrangements in his office for him (the driver) to come down and take whatever instruction our men can give him. I said the man is supposed to be competent in weapons, rifles, used in the Navy but they don't do much

with revolvers. Mr. Casper said he would do this. I said I suggested to the Chief Justice that his driver come down here and I instructed Mr. Casper to take care of that. Mr. Casper stated he will.

Very truly yours,
J. E. H.

John Edgar Hoover
Director

Best Copy available

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
Sullivan
Bishop
Bowman, C.D.
Gallagher
Casper
Conrad
Felt
Gale
Rosen
Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

TO : **Mr. Mohr** DATE: **October 1, 1970**

FROM : **J. J. Casper**

SUBJECT: **SECURITY OF SUPREME COURT BUILDING AND JUDGES OF THE SUPREME COURT**

Supreme Court

The Director has previously approved Training Division conduct an eight-hour course for the entire police force of the Supreme Court Building on Bombings and Bomb Threats. This training was conducted September 28 - 30, 1970, for 41 officers of the Supreme Court Police Force including command personnel.

This course of instruction entailed visual recognition of the more prevalent types of explosive, incendiary and detonating devices, as well as searching, evacuating and isolating pertinent areas. Current information concerning extremist philosophies (both black and white) was afforded.

In order to relate the training sessions directly to the Supreme Court Police, a series of photographs was taken of the outside vulnerable areas of the Supreme Court Building and grounds and were reproduced as 35 MM color slides. Areas susceptible to attack by extremists were pointed out at each of the training sessions. At the conclusion of the final training session, the color slide set was furnished to [redacted] who is the officer in charge of the Supreme Court Detail for his future use in reinforcing the search techniques illustrated by our instructors.

Response to this training effort was overwhelming and many laudatory comments resulted.

RECOMMENDATION:

None-for information.

ST-111

REC 12 62-27585-268

Write letter to Chief Justice re this.

OCT 7 1970

OCT 7 1970

1 - Mr. Casper
1 - [redacted] (Quantico)
[redacted]

ST-111

REC 12 62-27585-268

October 5, 1970

Honorable Warren E. Burger
Chief Justice of the United States
Washington, D. C. 20543

Dear Warren:

Pursuant to our previous conversations concerning measures to enhance the security of the United States Supreme Court Building and its occupants, I am happy to inform you that 41 members of your security force have completed an intensive eight-hour training session afforded by members of my staff.

Current data pertaining to the philosophy and potential of various extremist groups, visual recognition of the more prevalent types of explosive, incendiary and detonating devices as well as searching and evacuating buildings and the handling of bomb threats was presented. In order to graphically relate these training sessions directly to the Supreme Court Building and adjacent grounds, a series of photographs was taken of the outside vulnerable areas. These photographs were reproduced as .35 mm. projectable transparencies, in color, and were utilized to highlight those areas most susceptible to attack.

At the conclusion of the final training session, the .35 mm. transparencies were furnished t[redacted] for his use in reinforcing security measures illustrated by our instructors.

Tolson
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Tele. Room
Holmes
Gandy

1 - Mr. Casper
[redacted]

OCT 7 1970

MAILED 24
OCT 5 - 1970
COMM-FBI

59 OCT 9 1970

MAIL ROOM ☐ TELETYPE UNIT ☐

NOTE: Based on Casper to Mohr mem dated 10/1/70, captioned "Security of Supreme Court Building and Judges of the Supreme Court," wherein the Director noted "Write lette to Chief Justice re this. [redacted]

Honorable Warren E. Burger

I am pleased that this Bureau has been able to assist you in this matter and if I can aid you in any other way, please do not hesitate to call upon me.

Sincerely,

Edgar

Supreme Court of the United States
Washington, D. C. 20543

October 5, 1970

Mr. Joseph Casper
Assistant Director, F.B.I.
Department of Justice
Washington, D.C.

[redacted]
b6,
b7C

Dear Mr. Casper,

I would like to thank you again for the fine cooperation that you and [redacted] have given us in determining our security needs and improvements at the Court. I realize you are both very busy trying to keep up with the younger generation, plus all your other problems. The Chief Justice and I appreciate the time you took from your busy schedule to help us.

I want to commend Agents [redacted] and [redacted] for the fine job they did in conducting the three day classes for my men. They made the classes very interesting as well as educational. I have attented several of the Bomb schools and I must say yours was by far the most comprehensive one, I have attended.

I appreciate very much your recommendations to the Chief Justice. They are already paying off. He told me last week that he was asking for twelve more men in the next year's budget.

REC-10 62-27585-269

If there is ever anyway I could be of any assistance to you here at the Court, please don't hesitate to ask.

2 OCT 20 1970

EX-103

Best regards,

[redacted]
b6,
b7C

Captain's Office, Room #34
Supreme Court of the United States
Washington, D. C. 20543

[redacted]
10-1-70
b6,
b7C

October 14, 1970

REC-10 62-27585-269

EX-103

[redacted]
Room [redacted]
Supreme Court of the United States
Washington, D. C. 20543

b6,
b7C

Dear [redacted]

Assistant Director Casper has shown me your letter to him of October 5th. It was indeed good of you to write and comment as you did regarding the assistance recently afforded you in connection with security needs at the Court. We are always glad to cooperate in such matters and your offer to be of assistance is gratifying. My associates share my appreciation for your thoughtfulness.

MAILED 4
OCT 15 1970
COMM-FBI

Sincerely yours,
J. Edgar Hoover

1 - Washington Field - Enclosure
Personal Attention SAC: Bring to the attention of Special Agents [redacted] and [redacted]
1 - Mr. Casper - Enclosure
Personal Attention: Bring to the attention of Special Agents [redacted]
1 - Personnel File of SA [redacted] - Enclosure
1 - Personnel File of SA [redacted] - Enclosure
1 - Personnel File of SA [redacted] - Enclosure
1 - Personnel File of SA [redacted] - Enclosure

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Tele. Room
Holmes
Gandy

[redacted] TELETYPE UNIT

SEE NOTE PAGE TWO.

66 OCT [redacted] 1970

Captain Vernon W. Coble

NOTE: Our files contain nothing unfavorable regarding [redacted] Special Agents [redacted] and [redacted] are assigned to Washington Field Office, Special Agent [redacted] is assigned to Training Division and Special Agent [redacted] is assigned to Training Division at Quantico.

b6,
b7C

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Sullivan

FROM : J. H. Gale

DATE: November 6, 1970

SUBJECT: HOLE IN WINDOWPANE
SUPREME COURT JUSTICE
DINING ROOM

Tolson
Sullivan
Mohr
Bishop
Brennan, C.D.
Callahan
Casper
Conrad
Felt
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Rosen
Tavel
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Tele. Room
Holmes
Gandy

[redacted] of the Supreme Court Security Force telephonically advised Special Agent [redacted] Special Investigative Division, at 10:30 p.m., that during a routine patrol 11/5/70, one of his Security Force employees found a hole in a windowpane in the Justice's dining room. He stated apparently whatever caused the hole did not penetrate the window inasmuch as nothing could be found in the dining room. He stated the hole could have been made by a bullet or a rock. He stated local police had been advised of the incident.

[redacted] requested that Assistant Director Casper be advised of this incident in view of the fact that his men had recently been given training sessions by the FBI personnel, and that he had in fact this date (11/5/70) talked with Mr. Casper concerning his Security Force.

Mr. Casper was advised of the above as requested by [redacted] Washington Field telephonically advised of the above facts.

ACTION:

Washington Field instructed to contact [redacted] for full details.

1 - Mr. Sullivan
1 - Mr. Casper
1 - Mr. Rosen
1 - Mr. Mohr
1 - Mr. Gale
1 - [redacted]
1 - [redacted]

(8)

EX-113

62-275852-27

12 NOV 12 1970

53 NOV 25 1970

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

November 4, 1970

Mr. Tolson
Mr. Sullivan
Mr. Bishop
Mr. Brennan
Mr. Callahan
Mr. Gale
Mr. Rosen
Mr. Tavel
Mr. Walters
Tele. Room
Miss Holmes
Miss Gandy

Dear Edgar:

Your counsel and help on our security problems has been of great value. All your recommendations as to the Supreme Court Building have been or are in process of being carried out. One exception is the matter of exterior lighting to serve the dual functions of discouraging mischief-makers or vandals from approaching or damaging the building at night, or, alternatively, making such intruders more readily observable by our night patrol.

As you know, we have a heavy growth of decorative foliage surrounding the grounds, and while this adds to the beauty of the structure it also affords excellent cover for someone bent on demonstrative damage or worse. For this reason our own staff concludes that some form of exterior lighting should be installed as soon as possible for security purposes.

You and I discussed this briefly but at that time we were concentrating on interior security problems. If it is compatible with all the "protocol" it would help if you or your staff would write me approving exterior lighting for added security of the building.

I am deeply appreciative of all your help.

Sincerely,

Warren E. Burger

NOV 18 1970

Honorable J. Edgar Hoover
Director
Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20530

EXP. PROC.

NOV 4 1970

REC-57 62-27585-211

18 NOV 17 1970

EX-103

COPY MADE FOR MR. TOLSON

UNRECORDED COPY FILED IN 77-51116-1

EX-103 REC-57 62-27585-271

November 6, 1970

Honorable Warren E. Burger
Chief Justice of the United States
Washington, D. C. 20543

Dear Warren:

I was very pleased to learn from your letter of November 4, 1970, that you are implementing the suggestions I made to you concerning the improvement of security for the Supreme Court Building. Certainly in these times, with revolutionists and maniacs attacking our system of Government with bombs and arson, we must provide maximum security to our facilities.

As you will recall, it was my recommendation [redacted].

b2, b7C

I want you to know that I am happy to be of assistance in this matter and if we can aid you further, please let me hear from you.

MAILED 8
NOV 6 1970
COMM-FBI

Sincerely,
Edgar

1 - Mr. Sullivan
1 - Mr. Conrad
1 - Mr. Bishop
JJC/hcv
(11)

1 - Mr. Callahan

Note: Based on memo J.J.Casper to Mr. Mohr 11/5/70 re Security of the Supreme Court Building and Justices of the Supreme Court. JJC/hcv

54 NOV 30 1970

NOV 18 1970

Tele. Room
Holmes
Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

UNRECORDED COPY FILED IN 77-51996-1

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: November 5, 1970

FROM : J. J. Casper

SUBJECT: SECURITY OF THE SUPREME COURT BUILDING AND JUSTICES OF THE SUPREME COURT

Tolson
Sullivan
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Brennan, C. D.
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Soyars
Tele. Room
Holmes
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By letter dated November 4, 1970, to the Director the Chief Justice of the United States Supreme Court, Mr. Warren E. Burger, commented that he was in the process of carrying out our recommendations for improving the security of the Supreme Court Building. He indicated that all of the recommendations were being carried out with the exception of [redacted] Mr. Burger said, "If it is compatible with all the 'protocol' it would help if you or your staff would write me [redacted]

It was determined that the responsibility for repairs or changes in the Supreme Court Building rested with the architect of the United States Capitol, Mr. Mario E. Campioli.

b2 b7D

Accordingly, at 3 p.m., today, I saw Mr. Campioli concerning the [redacted] At this meeting Mr. Campioli advised that on October 28 he met with the Chief Justice concerning the problem [redacted] for the Supreme Court Building for added security. At that time they discussed the [redacted]

[redacted]

[redacted]

62-27585-272

Enclosure sent 11-6-70

1 - Mr. Sullivan
1 - Mr. Conrad
JJC/hcv
(6)

1 - Mr. Bishop
1 - Mr. Callahan

REC-57

EX-103

NOV 17 1970

EX-103

(CONTINUED - OVER)

7 DEC 2 1970

THREE

Memo J. J. Casper to Mr. Mohr
Re: Security of the Supreme Court Building
and Justices of the Supreme Court

62,67D

[redacted]

OBSERVATION: 62,67D

It would appear that possibly the Chief Justice is desirous of including a letter from the Director recommending [redacted] t certainly appears, however, entirely appropriate that because of our expertise in the area of security it would be proper for the Chief Justice to consult with the Director and for the Director to advise him concerning the methods and procedures in affording appropriate security to the building and to the members of the Supreme Court. Accordingly it is being recommended that the attached letter be forwarded to the Chief Justice.

RECOMMENDATION:

That the attached letter be sent to the Chief Justice.

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

1 Page(s) withheld for the following reason(s): This document is a classified letter from the Supreme Court of the United States, it has not been released inasmuch as the judicial system is not subject to the provisions of the FOIA.

☐ ~~Page(s) withheld for the following reason(s):~~

X The following number is to be used for reference regarding these pages: 62-27585-273

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
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XXXXXX

Mr. Tolson
Mr. Sullivan
Mr. Mohr
Mr. Bishop
Mr. Brennan, C.D.
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Tavel
Mr. Walters
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

REC-3 ST 117
62-175852

December 15, 1970

[redacted]

Mr. E. Robert Seaver
Office of the Clerk
Supreme Court of the United States
Washington, D. C. 20543

Dear Mr. Seaver:

This will acknowledge receipt of your letter of December 11, 1970, to Assistant Director Joseph J. Casper of this Bureau.

For your information, I have authorized the use of the non-lethal aerosol liquid tear gas by Special Agent personnel of the FBI. This equipment is utilized by Agent personnel of the FBI under strict controls as a nonlethal weapon. It is utilized to bring under control individuals who are physically opposing apprehension or threatening to use a weapon from which an Agent can reasonably avoid injury and persons physically interfering with an apprehension. It is not a substitute for a revolver. If it is used against any person, this individual is immediately given first aid by flushing the afflicted area with water and as soon as possible thereafter the individual is examined by a physician. It is felt desirable to obtain from the physician a written report of his findings and maintain this report for future reference.

Prior to the use of this device by FBI Agents, the Agents are afforded training. Should the Chief Justice desire that the FBI afford this type of training to the Supreme Court guard force, I am sure this can be arranged at a mutually agreeable time. We have experienced no difficulties with accidental discharge. Some of the aerosol dispensers show temperatures at which the contents of the container become unstable; this is, as you will note, at extremely high temperatures. We have, through effective training, encountered no danger to bystanders. Any type of weapon has the potential of inflicting injury.

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Tele. Room
Holmes
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JJC:aga
(3)

SENT FROM D. O.
TIME
DATE 12-16-70
BY

(See NOTE page 2)

55 JAN 13 1970

MAIL ROOM ☐ TELETYPE UNIT ☐

SENT DIRECTOR FOR APPROVAL

Mr. E. Robert Seaver

As you can see from the above comments, we have endeavored to hold injury to an absolute minimum. With regard to the potential of injury, I am enclosing herewith a report prepared by the Surgeon General's office on the use of the aerosol tear gas dispenser for your information.

Sincerely yours,

Enclosure

NOTE: I am in receipt of a letter from the captioned individual which is attached hereto. Seaver was investigated by the FBI, the results were favorable and furnished on June 2, 1970, to Associate Justice White. The Director has designated me to assist the Chief Justice and the police in improving the security to the Justices and Supreme Court Building. This letter is in response to the specific inquiries of Mr. Seaver.

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Tele. Room
Holmes
Gandy

Letters to the Editor E-10

Surveillance and Rights

To the Editor:

Assistant Attorney General William H. Rehnquist's remarks in committee offer us an opportunity to assess how far we have gone and where we are going on the road to self-enslavement. [Editorial March 12.]

We have already seen personal rights sacrificed to acquiescent legislatures, over-eager agencies, or both —no-knock, Army surveillance, wiretapping and computer dossiers are already part of our political culture. But when a high Administration official asserts, as a principle of government, that these aspects of our citizens' lives should be left to the sole discretion of the executive branch, a new element has been added.

The necessary implication of Mr. Rehnquist's comments is that a dictatorship — hopefully benevolent — is the most appropriate form of government for this country.

If his remarks are accepted by his listeners and by the public, then perhaps he is right. I prefer to hope that the other branches of Government will offer us a safeguard for our liberties.

FREDERICK, T. DAVIS
New York, March 10, 1971

Recourse to Congress

To the Editor:

In your March 11 issue Prof. Frank Askin criticizes the recent decisions of the Supreme Court limiting the power of the lower Federal courts to enjoin state prosecutions under allegedly unconstitutional laws. Nowhere in his lengthy criticism, or rather denunciation, is there a word about the *possibility*, open to him and those who share his views, of obtaining correction from Congress.

A stranger to our polity would suppose that all these matters are inescapably in the hands of the Supreme Court—an impression often conveyed by commentators, especially academic ones. That Congress has complete control over the exercise of jurisdiction by the Federal district courts, and has express constitutional power to enforce, "by appropriate legislation," the provisions of the Fourteenth Amendment, upon which rests the *imposition* on the states of what Professor Askin calls "constitutional values"—these things are perfectly well known to him. But like so many others he apparently prefers to seek salvation only from the Supreme Court.

Aside from all other considerations, a precise statutory definition of the *limitations on Federal court injunctions* against state prosecutions is immeasurably to be preferred to a doctrine to be extracted, if at all, so Professor Askin tells us, only from a study of seventeen separate opinions written by the justices in six cases.

LEWIS KAYERS
New York, March 12, 1971

b6 b7C

The Washington Post
Times Herald
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times E-10
The Daily World
The New Leader
The Wall Street Journal
The National Observer
People's World

Date MAR 21 1971

EX-112

REC 8 62-27585-

NOT RECORDED
191 APR 1 1971

PERS. REC. UNIT

3:35 PM

January 11, 1971

MEMORANDUM FOR MR. TOLSON
MR. MOHR
MR. CALLAHAN
MR. BISHOP

Judge Edward A. Tamm called. He told me that I was going to get a call from Chief Justice of the Supreme Court Warren Burger sometime in the next few days and he, Tamm, thought if I had a little advance information about it, I would be a little better able to evaluate it. Judge Tamm said that as I knew, the Chief Justice has been instrumental in having this school created at the University of Denver for training of court executives and he has gotten legislation for the appointment of court executives for each Circuit and he intends to get it for all multi-district courts, et cetera and he thinks there will be about 600 positions in the State and Federal Court systems which will open up in this area for trained people. Judge Tamm said the Chief Justice is going to call me to ask whether I would consider now and from time to time recommending to him or to Rowland Kirks of the Administrative Office FBI men who are retiring or are on the verge of retiring or are otherwise available who would go to this school in Denver for six months with all expenses paid and then become court executives. Judge Tamm said he is thinking ultimately, he knows, in terms of 600 trained administrators in this area. Judge Tamm continued that the Chief Justice thinks men with FBI training would be admirably situated and his, Tamm's, interest is that he thinks men in these key positions could influence these judges who are so completely inexperienced and unlearned in the practicalities of law enforcement that aside from their executive duties, they could be a tremendous force for keeping some of these stupid appellate opinions from coming out. I commented I thought that was true plus the fact there is the opportunity for the man to ultimately become a judge.

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Judge Tamm agreed and said that in the eleven Circuits, the job is going to start at $36,000 a year for court executives and when you get into some of the big state systems, for example, New York State where they pay their judges more than Federal Judges receive, the financial opportunity is great, and as I said, there is the opportunity to become judges, but to him the important thing is to bring a sense of realism into some of these deliberations, which would be a worthwhile opportunity. I said it would be wonderful

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Bishop
Brennan, C.D.
Callahan
Casper
Conrad
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MAIL ROOM ☐ TELETYPE UNIT ☐

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if it could be done. I said I think the administration of the courts is the greatest weakness as it exists today but by having somebody who will watch, no doubt a great deal of good could be done.

Judge Tamm commented that cases like Bobby Baker and Cassius Clay should have moved through in three or four months to the Supreme Court and disposed of, and a good executive could spot and get them and have them moving through and there is unlimited opportunity for good. I said I have more letters about the Clay case from people around the country wanting to know why it has taken so long to get action. I said I thought the Supreme Court today ruled on it in its Monday opinions. Judge Tamm said it should have been done two years ago. I agreed and said here people have boys going to Vietnam and young boys being killed every day and here this fellow is able to buck the court with a delay and you can't explain that to laymen. Judge Tamm said that the man gets better press notices than the President, if you read the sports pages. I said that also he is going to fight in New York where both are guaranteed not less than one million dollars.

I told Judge Tamm I would keep this in mind. Judge Tamm said the Chief Justice talked about this Saturday and he, Tamm, knew the Chief Justice was sitting today, but he had said he was going to call and talk it over with me so he, Tamm, thought if I had the background I could give it a little thought. I told him I was glad he called.

Very truly yours,

J. E. H.

John Edgar Hoover
Director

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: March 31, 1971

FROM : J. J. Casper

SUBJECT: THREAT TO BLOWUP U. S. SUPREME COURT BUILDING
1:38 P. M. DURING WEEK OF APRIL 5, 1971
BOMB THREAT

[redacted] who is in charge of the U. S. Supreme Court Police has just advised that Judge John Marshall Harlan is in receipt of a letter which threatens to blowup the Supreme Court Building at 1:38 p. m. sometime during the week of April 5, 1971. The letter postmarked March 28, 1971, in Pittsburgh, Pennsylvania, claims that the bombing will be done by the White Panther Party of Michigan as part of the national radicals bombing week. [redacted] remarked that Chief Justice Burger has requested that the FBI once again review the security of the U. S. Supreme Court Building as a safeguard against the threats explicit in this letter. [redacted] has forwarded the letter by mail to the FBI.

RECOMMENDATIONS:

(1) That this matter be referred to the Washington Field Office for investigation.

(2) That Assistant Director Joseph J. Casper contact [redacted] and review security presently being utilized by the U. S. Supreme Court.

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(3) That the letter in question be forwarded to the FBI Laboratory for appropriate examination upon receipt.

1 - Mr. Sullivan
1 - Mr. Bishop
1 - Mr. Casper
1 - Mr. Conrad
1 - Mr. Rosen
(7) [redacted]

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THREE