

MEMORANDUM

December 1, 1997

To: T. Jeremy Gunn
cc: Ron Haron
Kevin Tiernan

From: Laura Denk

Subject: Scope of Grand Jury Information Under Seal in the Assassination Records of the FBI

At your request, we asked Carol Keeley to arrange a meeting with a representative of the FBI's Office of General Counsel (OGC) to discuss grand jury information under court seal in the FBI's assassination records. As you know, the meeting is scheduled for 11:00 a.m. tomorrow morning at the FBI. The purpose of this memorandum is to refresh your recollection as to the events leading up to this meeting.

I discovered earlier this fall that in some of the HSCA subject files, the FBI had redacted a great deal of information as "Federal grand jury" information. I initially talked to Carol Keeley about the scope of the FBI's grand jury redactions. She provided me with the guidelines that the FBI uses to determine whether grand jury information is under court seal. We agreed that, in certain of the HSCA subjects, the processors had not used her guidelines -- instead, they had redacted more information than the guidelines suggested. Carol and I agreed that the FBI would re-process the grand jury information in the core files and in the HSCA subjects to ensure that the Bureau only redacted that grand jury information that they reasonably believed to be subject to the seal of a court.

I then discussed the issue with you, and you requested that the FBI explain to us their understanding of the scope of court seals with regard to grand jury information. In particular, you wanted to ask the following questions:

- What are the FBI's guidelines are for redacting grand jury information?
- We understand that the transcripts from grand jury testimony would be under court seal, but we would like to know the extent to which descriptions of what happens in front of the grand jury is under court seal. For example, when an FBI agent paraphrases grand jury testimony in an FBI report, is the paraphrase subject to court seal?

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- Can the court seal be waived? For example, when information that is under court seal is inadvertently released in FBI records, is the seal still intact for future purposes?
- Each court has different rules about the type of information that is protected by a grand jury seal. How has the FBI come to develop a universal guideline?
- For Carol: What type of quality control will you have to ensure that your guidelines are properly used? From a compliance perspective, does it make sense to have an affidavit from you ensuring that the Bureau has only redacted information that is, to the best of the Bureau's knowledge, under court seal?

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