

MEMORANDUM

RE: CONVENING OF FEDERAL GRAND JURY

This Memorandum is submitted to urge the Attorney General of the United States that, based upon the facts herein contained, a Federal Grand Jury should be convened to investigate the disappearance of Andrew Goodman, Michael Schwerner and James E. Chaney in Philadelphia, Mississippi, to the end that the true facts be obtained and that the persons responsible for the abduction of these three young men be apprehended and prosecuted.

The Federal Government is presently conducting an extensive investigation and search to discover the whereabouts of these three young men and what happened to them. This search has included the resources of the Federal Bureau of Investigation as well as segments of the Armed Forces of the United States. However, the young men are still missing in spite of the massive efforts of the federal authorities. A solution has not yet resulted. The criminals and their abettors are still at large.

The reasons for this are clear -- they lie with the willful evasion and hinderance of the local law enforcement officials and the organized terroristic activities against civil rights workers that exist in Mississippi, if not with the support of local officials, at least with their condonation. It is both

to obtain the true and complete facts from the recalcitrant local law men so as to solve the kidnapping and apprehend the perpetrators and to bring to the surface for prosecution under the existing adequate and applicable federal statutes (especially 18 USCA 1201 and 18 USCA 241, 242) the relationship between the organized terrorist conspiracy and the kidnapping that the convening of a federal grand jury is both appropriate and necessary.

From the outset, it has been apparent that the local officials have been and will thwart any investigation to locate the three young men and solve their disappearance. This is reflected in the very acts of the local officials immediately prior to the disappearance.

The New York Times in its first report on June 23, 1964, on the disappearance of the three young men reports:

"Cecil Price, the Neshoba County deputy sheriff, said he had halted and arrested the three about 5:30 P.M. yesterday (June 21, 1964). He said Mr. Cheney had been driving 65 miles an hour in a 30-mile zone on the outskirts of Philadelphia before he stopped them. The whites were held for investigation.

"The three were released from the county jail here at 10:30 P.M. after Mr. Cheney paid a \$20 fine.

"I told them to leave the county," said Mr. Price. The three then drove out along State Highway 19 after having told the deputy they were returning to Meridian, according to him."

Arrested for "speeding," held for four hours, two of the young men detained "for investigation," without opportunity

to contact anybody, or secure counsel, and released at 10:30 P.M. by the sheriff along State Highway 19. Such a release at that hour in that locality under those circumstances was nothing less than an invitation to terror and disaster.

As part of this obstruction there is the incredible, bad faith statements and acts of the local sheriffs and state officials as to the disappearance of the three young men. Sheriff Rainey stated, as reported in The New York Times on June 23, 1964: "If they're missing, they just hid somewhere, trying to get a lot of publicity out of it, I figure," he said," and as reported on AP wire, June 23, 1964, "Sheriff Lawrence G. Rainey told newsmen he feels the disappearance was staged."

The Sunday Times, June 28, 1964, points up that the local law officials have told conflicting accounts of when and where the three young men were released.

The New York Times of June 29, 1964, for the first time reports that this Deputy Sheriff Price had heard that the three young men

"... were 'riding around' together near a burned Negro church. He and other whites apparently knew that Mr. Schwerner and Mr. Chaney, task force workers for the Congress of Racial Equality, had engaged in civil rights activities in the area."

This is in stark contradiction to Sheriff Price's originally reported statement to the effect that his first contact or knowledge of the three was when they were arrested for speeding.

The response of Mississippi officials indicated their unwillingness to use proper law enforcement techniques. On June 23, 1964, The New York Times reported that:

"The Mississippi Highway Patrol issued a missing-persons bulletin, but a spokesman in Jackson indicated late today that it had no plans at present for further action."

An AP dispatch on June 23, 1964, states:

"Washoba County Sheriff's Officers said they were not looking for the three because no one had specifically asked them to do so."

Any further action which may have been taken by the state and local authorities has been the result of the federal pressure. The local authorities have consistently failed to come forward with either knowledge or meaningful investigation.

As William Bradford Huie writing from Philadelphia, Mississippi, points out in the New York Herald Tribune, June 29, 1964, the most intimate connection exists between the Klu Klux Klan and the local police officials of the State of Mississippi. This connection exists not only as to membership in the Klan by such police officials but as to their intimate relationship with the Klan elements in the community. As Mr. Huie writes:

"Klansmen or Klan sympathizers are the murderers. Many Mississippi police--municipal, county and state--are Klansmen. To become a Klansman a man must swear to be willing to 'get nigger blood on his hands.' He must swear fidelity to his fellows. So how, effectively, can a Klansman-policeman co-operate in a search for evidence against a brother Klansman?"

There can be no doubt that this situation makes impossible the bonafide cooperation of the local law officials and makes imperative the use by the Federal Government of its traditional means to enforce the Constitution and protect its citizens.

Complete knowledge about these events and the part played in them by the said police officials is crucial to the success of the investigation and to solution of the crime. Nevertheless, it has become apparent that without the use of compulsory process and the potential sanctions which the abuse of such process would call forth, there is little or no possibility that the Federal Government will ever obtain the essential evidence which the said police officials and others who may have been associated with them are in a position to make available.

There remains a host of unanswered questions involving this case which can only be brought to the light through use of a federal grand jury -- to both investigate and return indictments. Such questions as who knew the three young men were in jail, who saw them leave the jail, what relationship is there between the local law officials and the organized terroristic groups, what communication was there between local law officials and others regarding the three while they were in jail, why was their existence in jail originally denied, was the license number circulated by any local officials, how could the burned-out vehicle which was only 50 feet off the highway within view of any passing motorist (AP

dispatch, June 23, 1964) go undetected until a tip was received by the F.B.I. The answers to these questions may well go to the heart of a solution to the kidnaping. These answers are obtainable through the federal grand jury -- the established instrument to investigate and to determine the commission of a federal crime.

The recommendations of Mr. Dulles to President Johnson are based upon Mr. Dulles' factual conclusions that terroristic activities exist in Mississippi directed against the civil rights activities. (New York Times, June 27, 1964.)

Thus, the Times reports that Mr. Dulles recommended additional F.B.I. agents to be sent to Mississippi "to help 'control and prosecute terroristic activities'," and he further "proposed that contact be maintained between President Johnson and Governor Johnson 'to facilitate local, state and, as appropriate, Federal action to control and prosecute terroristic activities'."

This reign of terror against the young civil rights workers is not the result of individual acts but rather is an organized conspiracy with at least close relationship to the Klu Klux Klan and the Americans for the Preservation of the White Race. The existence of this terroristic organized conspiracy found by Mr. Dulles, documented by all responsible news reporting from Mississippi, graphically developed by Mr. Muie in the article above mentioned, editorially described by Joseph Alsop in the Herald

Tribune of June 29, 1964 as "a widespread, semi-organized -- perhaps much more than semi-organized -- underground terrorist movement dedicated to white supremacy" should command the attention of our Federal Government in its efforts to solve the abduction of the three young men.

There is another important reason for a grand jury inquiry.

All reports indicate that there is such an atmosphere of terror and intimidation in the locality where the abducted men were last known to have been that persons possessing relevant information would be afraid to disclose what they know unless they felt that they were protected by the authority of the federal government.

As witnesses before a federal grand jury they would be afforded the protection against physical harm to which such a witness is entitled. Furthermore the knowledge that persons have testified and been given the protection of the federal government would encourage others to overcome their fears and to become public spirited citizens willing to participate in the community effort to bring to light the facts about the crime.

On numerous occasions the Department of Justice has convened grand juries and special grand juries to investigate what appears to be an organized conspiracy in violation of Federal law. We need not cite the many instances of such grand juries touching upon most of the major federal crimes. Where, as here, the nature

of the conspiracy is both terroristic and secret and appears clearly to have had an intimate relationship with the federal crime of kidnapping, the convening of a grand jury is particularly appropriate. It further brings to bear the power of the Federal Government in a manner and means which the Federal Government has traditionally exercised and which is well recognized and accepted. See in this regard the extensive discussion and citations in United States v. Smyth, 104 F.Supp. 283, 288-292 (D.C. Cal. 1952); Hale v. Henkel, 201 U.S. 43 (1905); 42 Yale Law Journal, 163, 189-191 (1932).

The facts set forth above make it imperative that a Grand Jury be convened under the direct supervision of the Attorney General to investigate into the kidnapping and organized terroristic activities mentioned above to the end that a solution be obtained and the criminals brought to justice.