

T. 9/27/73

OCT 16 1973

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

Jeffrey R. Whieldon
Attorney
Criminal Section

JRW:hdt
DJ 144-32M-9

Unknown Subjects;
Denver Allen Smith (Deceased), Leonard
Douglas Brown (Deceased) - Victims;
Southern University Baton Rouge
(East Baton Rouge Parish), Louisiana

Investigative Grand Jury

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9/27/73
well
10/16/73*

This memorandum sets forth recent developments in the above-captioned matter and concludes with the recommendation that an investigative grand jury be convened for the sole purpose of taking testimony under oath in the hope of developing evidence of the identity of the subject who fired the fatal shot. To date, no investigative agency or tribunal, to our knowledge, has been able to determine the identity of the subject.

A Memorandum for the Attorney General and a Summary of Evidence prepared by the reviewing attorney on January 5, 1973, accurately set out all known facts in this case and all major developments up to that date. For that reason, no factual summary is included in this memorandum. Copies of both memoranda are

cc: Records ✓
Chrono
O'Connor
Murphy
Whieldon
USA - ~~New Orleans~~, La.

Baton Rouge

attached as are photographs and diagrams which were originally attached to the Summary. It can generally be stated that no significant new facts have been disclosed since that time. The few that have been, as well as a summary of our subsequent investigative efforts, will be set out below.

The memorandum concludes with a discussion of the pros and cons of a federal grand jury in this case, this reviewer's personal recommendation and the recommendation of the United States Attorney, the type of evidence which could be presented, the witnesses that would be subpoenaed and the question of the public position that this Department should take if no grand jury is convened or if no indictments can be or are sought.

ADDITIONAL FBI INVESTIGATION

At the time the attached memoranda were prepared, the major portion of the FBI investigation had been completed. Three additional reports, the last on February 12, 1973, concluded the full investigation which had been ordered on November 17, 1973. These last reports contain, inter alia, results of polygraph examinations and interviews, interim reports of the state Attorney General's Commission and Black People's Committee of Inquiry, interviews with deputies made at this Division's request to clear up inconsistencies and interviews relating to Lt. Carr's problem.^{1/}

^{1/} Subsequent to his initial Bureau interview Carr realized he had fired three rounds but could only account for two.

Ten deputies were asked to take polygraph examinations. Carr was asked because he was a respected squad leader and it might set a precedent. He initially was not a suspect. Crais, as we will see, was asked because of his knowledge of Carr's weapon load. The other eight were determined to be suspects because of location and/or activities. Generally the Bureau would state that all other deputies are eliminated for one reason or another.

With

With reference to the examinations themselves, four deputies voluntarily took same and showed no deception on the key questions of whether they shot the victims or knew who did. These deputies were Caffarel, Jarreau, Ryals and Johnson. Ryals and Johnson had been suspects because of their close proximity to the palm tree at pertinent times. Further, Ryals was a sergeant wearing stripes and several witnesses have said that such a person fired a shotgun. Of course Ryals had a tear gas grenade launcher on his, which makes it dangerous to fire live rounds.^{2/}

Caffarel was also a suspect because of his location and his initial denial of and later admission to giving expended cartridges to Carr with an understanding that nothing would be said about them. Jarreau was a suspect because of his location near the palm tree. Originally, Jarreau said he chambered a round of buckshot but did not fire. During the polygraph examination he said he did not

^{2/} A deputy named Fulton stated in his interview that he saw Ryals fire a round without a grenade in his launcher. The witnesses who saw a sergeant fire said he did not have a launcher and ended up pointing out Tycer of Squad 1, who had a rifle. There were no other sergeants with shotguns in the suspect area.

and showed no deception. In a follow-up interview he also denied chambering a round. The polygraph examiner had not noted the inconsistency, nor apparently had the interviewing agent.^{3/} Nevertheless, Jarreau shows no deception on the key questions of whether he killed the students or knows who did. Jarreau also admitted to picking up the hat of one of the victims, but gives no reason therefor.

Lt. Crais also took a polygraph examination in order to clear up the situation that Carr found himself in. Crais showed no deception when he described the fact that he had examined Carr's gun on the way to SUBR and found in it five rounds of gas. Although Sliman and Rives state in a Bureau "302" that Carr believes his third shot may have been live as he may have reloaded after the first two, this is not alluded to elsewhere or in the prepared statements of Sliman and Rives. Notwithstanding all this, Bureau agents do not believe Carr was in a position to fire the fatal shot.^{4/}

Of the four deputies who refused polygraph examinations, three can be considered the chief suspects in the case. The other one, Gary Wall, was undecided whether he should take the exam. He never recontacted the Bureau, however, to do so. Wall was a suspect mainly because of his suspicious movements prior to the shooting which are recorded in film but which he originally denied. Wall,

^{3/} Both were interviewed extensively by the reviewing attorney on this and other points.

^{4/} Carr suffered severe psychiatric problems apparently as a result of this agonizing over shots. He was hospitalized for an extensive period and is believed to have resigned.

however, was not in the proper area to have fired the fatal shot and agents interviewed by this attorney do not believe him to be the subject. One deputy who was interviewed states that Wall was next to him the whole time and that a loud report, which was apparently the fatal shot, came from further away near the palm tree.5/

The key suspects (Story, Potts and Cambre) are all visible in photograph #5 and are positioned on diagrams #2 and #3. Story and Potts both state they had .00 buckshot in their weapon and never fired. Cambre says he only had gas and fired twice. Story refused to take the examination with little or no comment. Potts refused by saying he knew he would pass it but since it would narrow the field of suspects he did not desire to do so. Cambre was hostile in his refusal stating his annoyance at being harassed by the Bureau. All three of these persons were suspects because of their being within the probable area from which the shot was fired. The key agent in the analysis of films and narrowing of suspects personally believes Cambre to be our subject. This is only his opinion after seeing Cambre and living for three weeks with the case. It is not based on any more actual evidence, however, than is set out above

It was learned recently that Cambre has been fired for some trouble during the arrest of a woman. The Sheriff denies any connection whatsoever to the Southern shooting, but it is believed that Cambre's role as a chief suspect contributed to his dismissal.

5/ Wall is also reported to have resigned for personal reasons. He had serious domestic problems.

Generally, all other evidence developed by the Bureau subsequent to that disclosed in the attached memoranda was of no assistance in determining a subject. For example, Bobby Watts was re-interviewed. He is a deputy who said he only had gas but who, according to a black deputy, said to him that he had both gas and buckshot in his weapon. Watts is also a member of the narcotics section and carries his own weapon. Another black deputy stated he had heard that such a person was the chief suspect. Watts, however, said he only had two rounds of gas in his weapon since the magazine will not hold anymore. He remembers handing his weapon to a deputy but denies saying anything about having buckshot in it. This line of inquiry is apparently to no avail as Bureau agents have told the reviewing attorney that Bobby Watts is not a suspect since he was not near the area from which the shot came.

Other interviews of deputies were nonproductive as far as yielding new facts or shedding any light on the key question of who fired the fatal shot.

It should be noted here that no shotguns were analyzed by the Bureau for tracings of lead. According to agents that this attorney spoke with it would probably have been of no value since such tracings may last an extensive period of time or the deputy could have said he recently fired live ammunition while personally using the weapon. Despite the fact that this might have been a useless exercise, the possibility of at least narrowing the field did exist. I would recommend getting weapons immediately in the future for whatever analysis they might lend themselves. Note also that no expended buckshot cartridge was recovered which could have been compared with weapons for firing pin markings.

A tape recording made by a reporter during the confrontation discloses the faint words "I got him (or 'em), I got him Gene (?)." This tape was listened to by most reporters present, the Sheriff, Chief Deputy Eugene Rives and Major Sliman. No one could identify the voice. The reporters believed it had to be a newsman as voices beyond 4-6 feet would have been difficult to pick up in all the noise and confusion. This reviewing attorney has listened to the tape and those words are very faint, but it is also during a lull in other noise, which leads one to believe it could have been further away. (The reporters were at least 30 feet from the palm tree). Also other voices on the tape of those reporters in the immediate area are much more audible. The only known "Gene" (if that is the word) in the area appears to be Rives. Rives, however, told the Bureau that he is normally addressed as "Chief".

This brings up to date the significant evidentiary developments in the case. The results of local and state action and the Black People's Committee will be set out below as will a brief summary of field work by Division attorneys.

STATE COMMISSION OF INQUIRY

The State Commission of Inquiry, a blue-ribbon panel with subpoena powers headed by State Attorney General William Guste, met for approximately 88 hours over a three-week period after the shooting. It personally interviewed 32 witnesses, including university officials, Sheriff's and State Police officials, and students. It did not, to our knowledge, interview deputies. It also carefully reviewed film of the shooting, interviewed the

cameramen and viewed still photographs. It had the services of police specialists and technical advice from a criminalistic laboratory and state police laboratory. The staff also obtained 225 statements from persons at the scene or who possessed pertinent information. The Commission's preliminary report, issued in mid-December 1972, stated, inter alia, that the fatal shot came from an area where six deputies were standing. The report did not identify any subject. A final report, issued on July 10, 1973, says the entire confrontation was unjustified. It concluded that the police were overarmed and underdisciplined and that much of the confusion was due to human error.^{6/} This report also did not identify the subject responsible for the shot. The report placed blame for the confrontation and killings on both sides. The Commission then turned over its work product to the parish grand jury. A spokesman for the Attorney General has also said that neither that office nor the commission has identified the officer who fired the fatal shot.

This Department has had no contact with Guste's commission and does not have copies of its transcript or interview reports. It is generally believed by the United States Attorney and Parish Attorney that Guste's inquiries were not particularly deep.

BLACK PEOPLE'S COMMITTEE OF INQUIRY

On January 26, 1973, D'Army Bailey, Co-chairman of BPCI, held a press conference and released their final report. This committee was formed shortly after the shooting

^{6/} Tear gas being thrown prior to orders and being thrown back by students.

and consisted of black leaders from throughout the country. It met for two days and generally heard only student witnesses. Deputies or other law officers did not testify. Several members could be considered radicals, including Bailey. At the press conference Bailey stated that the identification of the deputy who fired the fatal shot was known. He refused to identify the officer and said only that persons in the executive department of state government provided him with the information (This would refer to the Attorney General's Office). Bailey also said that FBI Agents had narrowed down the suspects to one deputy. Both a state spokesman and U.S. Attorney Gonzales denied this to be true.

The BPCI report found that the victims died of shotgun fire from law enforcement officers and that university administrators and law enforcement officers were criminally negligent in failing and refusing to provide immediate medical attention and treatment for the two students. The report recommended criminal charges against the officer who threw the tear gas canister which precipitated events (a state policeman) and charges against Sheriff Amiss and others for "negligently, and with a wanton disregard for human life, failing in their duty to control their personnel, resulting in the loss of two lives."

This Division has had no contact with Bailey's group other than a letter from Bailey, wherein he requested a meeting with representatives of the Division to disclose his evidence and also requested speedy prosecutive action. We responded by stating we would be happy to receive any evidence he has. No further overtures were made by him.

EAST BATON ROUGE PARISH GRAND JURY

In March 1973, an East Baton Rouge Parish Grand Jury began meeting to hear evidence in this case. On July 28, 1973, that grand jury closed its term ("pre-terminated") without returning indictments. It sought to answer two questions, what violations of law occurred and who committed them. By preterminating the grand jury says in effect, that the evidence available is neither sufficient enough to return indictments nor insufficient enough to clear anyone. The grand jury's brief report indicated that 67 witnesses had been questioned under oath and all physical and documentary evidence studied. (See below for more details of grand jury learned in a meeting with Parish Attorney Ossie Brown).

INVESTIGATION BY DIVISION ATTORNEYS

The reviewing attorney has made several field trips for meetings with FBI agents, the United States Attorney and Parish Attorney Ossie Brown.

A meeting was held in January in Philadelphia with three agents who participated in the investigation. The purpose of the meeting was to clear up questions concerning the Bureau analysis and narrowing of suspects. Two other meetings were held with Special Agent Neil Shanahan of Philadelphia who came to Washington to go over films and photographs with the reviewing attorney. Shanahan has an astounding knowledge of the facts in the case, especially the names of deputies in photographs, their individual movement, coordination of various photographs and the method of analysis used to narrow suspects. Shanahan will only say that they believe their analysis to be correct and that one of the three chief suspects is the subject. He also said, however, that it is not

impossible that another deputy got himself in and out of the suspect area and fired the fatal shot. Based, however, on the best analysis that can be made of photographs and film just before and just after the shooting, Story, Potts and Cambre are the suspects. 7/ A field interview of the polygraph examiner was also conducted.

Finally, the reviewing attorney and a Deputy Chief met on two occasions with Parish Attorney Ossie Brown and the United States Attorney. The first occasion was in March to turn over our files for his use and the use of his grand jury. The second was in August to discuss the grand jury results. Brown indicated that he could not tell us what witnesses said in the grand jury as it was secret but could tell us generally whether the witnesses disclosed useful new evidence in his pre-interviews or evidence inconsistent with FBI interviews. He responded in the negative on both counts. He stated that all suspect deputies were subpoenaed and testified under oath that they did not fire the fatal shot and did not know who did. He did not subpoena Carr as he was ill. He also did not question people on the tape recording as he had apparently overlooked its existence in our reports. He has recently been supplied with a copy of the tape and stated that he intended to subpoena Rives and question him about it.

RECOMMENDATION

Since other investigations have been concluded without taking any action (or making any identification), it is now incumbent upon this Department to make a decision of

7/ Of course, this determination is contingent on the fact that the subject knows he fired the fatal shot. Others in the area who took polygraph tests could have passed if they had no idea they fired the fatal shot. Caffarel and Johnson say they fired gas. One or the other may have fired buckshot and not known it. Jarreau says he did not fire at all and had only buckshot. Unless he honestly does not remember firing but did, his exam is probably conclusive.

whether to close the file or convene a grand jury. This attorney does not believe any additional investigation would be useful. Most known witnesses have been interviewed at least once. A few students who, according to Ossie Brown, may have information have not been interviewed. They, along with all other students, refused to testify at his grand jury. They probably have no useful information as to identity or they would have come forward before, at least to BPCI. At any rate, the most productive course would probably be to subpoena them to give testimony. Most deputies have been interviewed at least twice, while the suspects have been interviewed at least four times and some given polygraph examinations.

It is the opinion of the United States Attorney and the reviewing attorney that although the likelihood is remote that a grand jury might develop additional evidence which could lead to identification of the subject, limited inquiries by such a body in this regard are probably necessary for cosmetic purposes and to satisfy our moral obligation to the public. We certainly have no legal obligation to do so. It is clear that such further investigation would never be pursued in the ordinary case, especially when one considers the resources expended and lines of inquiry pursued in this matter.

Without knowledge of the thoroughness of the state grand jury inquiry and the substance of pre-grand jury interviews conducted by Brown, we are unable to rely on that tribunal as having pursued all leads and having questioned witnesses in an exhaustive manner. Also, the response of much of the public to the local grand jury's inaction is probably one of "what else did you expect."

I do believe Brown made a minimal good faith effort particularly because of his running battle with the Sheriff. He has, however, a reputation for deviousness. Whether he pushed hard enough or asked the right questions will never be known. 8/

The purpose, then, of a federal grand jury at this stage would be limited. It is not being convened to evaluate evidence of the student and police activities, i.e., the type of provocation, the threat to officers, if any, and the necessity to use force. Its sole purpose would be to see if someone will "crack" or if any of the few previously hostile witnesses can shed any light on the identification process. If a subject is identified it may be that we only establish that he made a mistake in the type of ammunition he thought he was shooting. At that point the matter might still have to be closed unless evidence of a deliberate act was developed. 9/ Finally, only after establishing that it was deliberate, would we get to the point of presenting for a grand jury's consideration evidence bearing on the necessity of such an act and the subject's state of mind.

8/ Under state law, grand jury testimony is secret and only permitted to be used under certain circumstances in state proceedings. Whether the federal government could get a copy by going to court is unknown. It has apparently never been done. The possible constitutional crisis does not seem to be worth the trouble.

9/ An interesting theory is whether and to what degree we could prosecute a deputy who deliberately aimed and fired at students with what he thought was gas but turned out to be buckshot, believing only that it might hurt or injure them but not kill them.

Letters have been received recently from the head of the N.A.A.C.P. and the lawyer for victims' families (they contemplate a civil suit) requesting that a federal grand jury be convened. Such inquiries and pressures are bound to continue, especially in view of the Kent State re-opening.

Whatever decision is made, I believe it is incumbent on this Department to issue some public explanation similar to that included recently in a letter to President Cheek of Howard University concerning Jackson State.

Consideration must also be given to the public reaction to a grand jury which does nothing as opposed to closing the file with no action. An explanation that we have no evidence to take to a grand jury since no identification has been made after extensive investigation and testimony under oath in a state grand jury may be more satisfactory than a federal grand jury which adjourns saying "we do not know who did it either."

I raise the above questions because I believe they are important to the consideration of further action by this Department in a case of such national concern.

On balance, of course, we may be obligated to convene a grand jury in view of the nature of the case. Only then can we truly respond that we did everything possible to fully investigate it.

Some consideration should also be given to other violations of law here. There is the possible argument that the Sheriff and those in charge were reckless in their

disregard for the students' rights by their lack of control over and coordination of deputies' activities, shotgun load and the like. A state charge based on the above might have been feasible but our burden of proving specific intent would seem too difficult to overcome.

It should be noted too that the Commission and legislature have made or are making recommendations for future deployment of law officers on campus. As I understand it such poorly trained deputies will never again have the opportunity in Louisiana to participate in the manner they did at Southern University.

T. 10/16/73

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

OCT 16 1973

William L. Gardner
Deputy Chief
Criminal Section

OCT 16 1973 WLG:ljr

DJ 144-32M-9

Unknown Subjects;
Denver Allen Smith (Deceased), Leonard
Douglas Brown (Deceased) - Victims;
Southern University Baton Rouge
(East Baton Rouge Parish), Louisiana

Investigative Grand Jury

WLG
10/16/73

I recommend that we convene an investigative grand jury in Baton Rouge to investigate further the deaths of two Southern University students during campus disturbances on November 16, 1972. The attached memoranda from Mr. Whieldon thoroughly analyze the evidence to date, and also conclude with the recommendation that a grand jury be convened.

We need an investigative grand jury primarily to ensure that all logical investigative steps have been taken to answer the question of who fired the fatal shot. All investigative efforts, both federal and state, have to date failed to answer this question. The East Baton Rouge Parish Grand Jury studied the facts for many months, with the assistance of the entire investigative file of the Bureau, but was also unable to find prosecutable violations.*

Because of confidentiality provisions of state law, we are unable to gain access to the state grand jury transcripts and accordingly have no way of assessing

*Attached hereto is a letter from the Parish D.A. which will require a response following our decision.

cc: Records ✓
Chrono
O'Connor
Murphy
Gardner
Whieldon

the thoroughness of that body's efforts. Accordingly, there is ample justification for our striving to reach our own conclusions with the benefit of the opportunity to examine witnesses under oath.

The principal factor in the decision to proceed to grand jury, however, is the great necessity to convince the public that we are committed to taking every step possible to identify a subject in this case. There is little value in going as far as we have, including the massive FBI investigation and the cooperation with the state, without taking the one last step to determine once and for all whether a subject can be identified. This is so notwithstanding the reasonable possibility that our efforts will be unsuccessful. My own view of how productive a federal grand jury might be, however, is more optimistic than that of Mr. Whieldon.

I recommend we proceed expeditiously to the decision to convene a grand jury. Mr. Murphy and Mr. Allen share this view.

T. 10/19/73

OCT 19 1973

K. William O'Connor
Deputy Assistant Attorney
Civil Rights Division

JKW:hdt
DJ 144-32M-9

Jeffrey R. Whieldon
Attorney, Criminal Section

Southern University
Baton Rouge, Louisiana

Supplement to Memorandum Recommending
Investigative Grand Jury: Tape Recording

10/19/73
On October 18, 1973, I spoke with Special Agent Richard Blay, Civil Rights Desk, the agent responsible for the Southern University Baton Rouge case. I requested that a voiceprint man in their lab listen to the tape recording containing the words, "I got him, I got him, Gene," and report to us whether or not any comparative analysis could be made with recordings of suspects' voices saying the same or similar words.

Blay reported back that George Burman, a voiceprint expert, had already printed these words out on a spectrograph.* His opinion was that since

* This information and what follows never appeared in any Bureau report. The reports re the tape only contain a transcript, the opinion that the caliber of weapon cannot be determined and interviews with members of the news media and Amiss, Rives and Sliman in order to make an identification. None was made.

cc: Records ✓
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Chrono
O'Connor
Murphy
Whieldon
USA - New Orleans, La.

- 2 -

the length of the spoken words is so limited, the level so low and the quality so poor, it is virtually worthless as far as comparative analysis is concerned. He did say that its only possible use would be to get all suspects to say the same words and then attempt a spectrographic analysis. He is, however, most pessimistic as to whether any conclusive determinations could be made, one way or the other.

T. 10/26/73

Director
Federal Bureau of Investigation

OCT 26 1973

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

JSP:WLG:JRW:hdt
DJ 144-32M-9

Unknown Subjects, Deputies;
East Baton Rouge Parish Sheriff's Office
East Baton Rouge Parish, Louisiana
Denver Allen Smith (Deceased);
Leonard Douglas Brown (Deceased) - Victims
Summary Punishment
CIVIL RIGHTS

Reference is made to your memorandum dated September 10, 1973, enclosing one copy of a letter-head memorandum in the above-captioned matter dated September 7, 1973 at New Orleans.

Please conduct the following additional investigation:

1. Interview East Baton Rouge Parish Deputies Melvin Story and Paul Potts and former Deputy Wayne Cambre as follows:

a. First, ask each if he will voluntarily submit to the taping of his voice under the guidelines

cc: Records ✓
Chrono
Murphy
Gardner
WMM Whieldon
USA - Shreveport, La.

set out below and limited solely to saying the words, "I got 'im, I got 'im Gene." If they will so submit, make the recording in the manner set out in the footnote below.*

b. If the response to the request in (a) above is no, then ask each of the three if they have changed their mind as to voluntarily submitting to a polygraph examination. If the response to (a) above is yes, then ask for polygraph examinations, but only after securing their words on tape.

Note that since Cambre was terminated by the Sheriff's Office that fact should be brought to his attention when he is asked to submit to either of the above. Hopefully, if he is not the subject, the fact of his departure might influence his willingness to cooperate at this time.

* George O. Verven, voiceprint expert at the Bureau laboratories in Washington (extension 2704) should be contacted by the agent to make the recordings prior to initially approaching the suspects in this regard. Equipment and facilities for taping should be available at the time of initial contact so that the recording can be made on the spot if agreed to by suspects.

The following conditions will be elaborated on by Mr. Verven. Recordings should be made with the same recorder and microphone (owned by Henry Baptiste), if possible. The same words in the same sequence as the original should be recorded. ("I got 'im, I got 'im, (pause) Gene," not "I got him"). The words should be spoken in a similar manner, speed and intonation, if possible. The words should be recorded about six times, some right into the microphone, some back a few feet.

Note that the original tape, if still available, should also be sent to Verven along with any recordings provided by suspects.

2. Determine from former Deputy Gary Wall if he has made a final decision whether or not to submit to a polygraph examination. If he will so submit, administer the examination. Since Wall is also apparently no longer with the Sheriff's Office, point out this fact in the hope he might now be willing to disclose any information he may have as to the possible identity of a subject. (Note that based upon Bureau analysis, Wall is not likely to be the subject who fired the fatal shot).

3. Interview D'Army Bailey, former Councilman, City of Berkeley, California, and Co-Chairman, Black People's Committee of Inquiry, for any information he may have as to the identity of the subject. Note that Bailey told the press last summer that he had been informed of the identification of the deputy who fired the fatal shot. Determine his source and the name of the subject. Indicate that such information will be treated with complete confidentiality and disclosed only to the Civil Rights Division.

4. Make additional efforts to locate and interview Mike Henderson (p. 280, report of December 1, 1972), formerly a part-time photographer for WRBT-TV, with reference to the relevant tape recording and determine whether he can identify himself and others, specifically with reference to the words, "I got him, I got him, Gene."

5. Determine whether the tape recording made by Robert Collins, reporter for radio station WJBO, contained any live recording of the incident itself or shots fired. Collins describes in his interview (p. 360, report of December 8, 1972) that he spoke into his recorder as events unfolded on the scene. Obtain a copy of that recording.

6. Determine whether Chief Deputy Eugene Rives, Major Fred Sliman or Sheriff Al Amiss will submit to a polygraph examination concerning their knowledge of the identity of a subject or key suspects. If so, conduct such examinations and as to each ask specifically his knowledge of the source of the words "I got him, I got him, Gene" on the tape. Also ask Rives if the "Gene" could refer to him.

7. Re-interview black Lieutenant Dalton Honore at his residence. In so doing do not advise any authorities of the Sheriff's Office or Parish Attorney that such an interview is being conducted. Determine from Honore whether he or other black deputies have any further information concerning the narrowing of suspects or their identity. (Note that Honore previously provided information that suspects had been narrowed to three and that it was an individual in the Narcotics Section who owned his own weapon. See page 84 of the report of December 15, 1972).

From
Director
Federal Bureau of Investigation
To

NOV 16 1973

- ☐ The Attorney General
☐ The Solicitor General
☐ The Deputy Attorney General
☒ Assistant Attorney General

RECEIVED 5

RE:

- ☐ Antitrust Div.
☐ Civil Div.
☒ Civil Rights Div.
☐ Criminal Div. (DOJ)
☐ Internal Security Sec.
☐ General Crimes Sec.
☐ Special Litigation Unit

DEPT. OF JUSTICE
MAIL ROOM
OROM

Vandenberg

DOCKETED

NOV 30

CIVIL RIGHTS

- ☐ Director, Bureau of Prisons
☐ The Pardon Attorney
☐ Chairman, Parole Board
☐ Assistant Attorney General for Administration
☐ Immigration and Naturalization Service
☐ Drug Enforcement Administration
☐ Law Enforcement Assistance Administration
☐ Director, Office of Budget and Accounts
☐ Director, Office of Administrative Services
☐ Director, Office of Personnel and Training
☐ General Litigation Section, Civil Division
☐ Office of Records Operations and Management
☐ Community Relations Service
☐ A. No further action will be taken in this case in the absence of a specific request from you.

- ☐ B. Please advise what further investigation, if any, is desired in this matter.
☐ C. For your information, I am enclosing a communication regarding the holder of a diplomatic or international organization visa.
☒ D. For your information.
☐ E. Please note change in caption of this case.
☐ F. Pursuant to your inquiry, attached information is being furnished.
☐ G. Investigation is continuing.

- cc: ☐ Attorney General ☐ Deputy Attorney General ☐ Civil Rights Div.
☐ Antitrust Div. ☐ Civil Div.
☒ Criminal Div.
☒ Int. Sec. Section
☒ General Crimes Section
☐ Special Litigation Unit

Enc.
Bufile:

MISSISSIPPI 11-16-73,
UNIVERSITY, BATON

IVERSITY (LSU) STUDENTS
FROM LSU TO STATE
LSO INCLUDE PRESENT-
T ATTORNEY'S OFFICE,
STUDENTS KILLED ON

11-16-72.
MEMORIAL SERVICE
REV. L. L. HAYNES,
ISRAEL AUGUSTINE

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20 NOV 19 1973
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CIV. RIGHTS DIV.
RECORD

11-15

11-15-73

DOCKETED

NOV 30

CIVIL RIGHTS

TO DIRECTOR
FROM NEW ORLEANS

MEMORIAL SERVICES AND MARCH, BATON ROUGE LOUISIANA 11-16-73,
COMMEMORATING DEATHS OF TWO STUDENTS SOUTHERN UNIVERSITY, BATON
ROUGE, LA., ON 11-16-72; CIVIL UNREST.

INFORMATION RECEIVED THAT LOUISIANA STATE UNIVERSITY (LSU) STUDENTS
AND FACULTY, BATON ROUGE, LA., PLAN TO MARCH FROM LSU TO STATE
CAPITOL BUILDING AT 12:30 PM, 11-16-73. PLANS ALSO INCLUDE PRESENT-
ING A PETITION REQUESTING 19TH JUDICIAL DISTRICT ATTORNEY'S OFFICE,
LA., TO RE-OPEN INVESTIGATION RE DEATHS OF TWO STUDENTS KILLED ON
SOUTHERN UNIVERSITY, BATON ROUGE, LA., CAMPUS ON 11-16-72.

SOUTHERN UNIVERSITY, BATON ROUGE, LA., PLANS MEMORIAL SERVICE
STARTING 10:00 AM 11-16-73. MEMORIAL ADDRESS BY REV. L. L. HAYNES,
JR., FROM 10 TO 11:00 AM. SPEECHES BY JUSTICE ISRAEL AUGUSTINE
AND DICK GREGORY FROM 11 TO 3:00 PM. ALL SOUTHERN CLASSES SUSPENDED.

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11-24-73
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144-32M-9
144-32M-10

DEPARTMENT OF JUSTICE		R E C O R D
20	NOV 19 1973	
O.R.O.M.		
CIV. RIGHTS DIV.		

From
Director
Federal Bureau of Investigation

- ☐ The Attorney General
☐ The Solicitor General
☐ The Deputy Attorney General
☐ Assistant Attorney General

- ☐ Antitrust Div.
☐ Civil Div.
☐ Civil Rights Div.

- ☐ Criminal Div. (DOJ)
☐ Internal Security Sec.
☐ General Crimes Sec.
☐ Special Litigation Unit

- ☐ Director, Bureau of Prisons
☐ The Pardon Attorney
☐ Chairman, Parole Board
☐ Assistant Attorney General for Administration
☐ Immigration and Naturalization Service
☐ Drug Enforcement Administration
☐ Law Enforcement Assistance Administration
☐ Director, Office of Budget and Accounts
☐ Director, Office of Administrative Services
☐ Director, Office of Personnel and Training
☐ General Litigation Section, Civil Division
☐ Office of Records Operations and Management
☐ Community Relations Service

- ☐ A. No further action will be taken in this case in the absence of a specific request from you.
☐ B. Please advise what further investigation, if any, is desired in this matter.
☐ C. For your information, I am enclosing a communication regarding the holder of a diplomatic or international organization visa.
☐ D. For your information.
☐ E. Please note change in caption of this case.
☐ F. Pursuant to your inquiry, attached information is being furnished.
☐ G. Investigation is continuing.

cc: ☐ Attorney General ☐ Deputy Attorney General ☐ Civil Rights Div.
☐ Antitrust Div. ☐ Civil Div.
☐ Criminal Div.
☐ Int. Sec. Section
☐ General Crimes Section
☐ Special Litigation Unit

Enc.

Bufile:

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144-32m-9	
DEPARTMENT OF JUSTICE	
24	NOV 20 1973
R.A.O.	
CRIMINAL-GEN. CRIME SEC.	

LOUISIANA,

SOUTHERN

CIVIL

ORIAL SERVICE

HELD 11/16/73,

INTERNAL SECURITY DIV.
 Criminal Section

Copy to

Recommendations
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 agency; it and
 ted outside

TO: DIRECTOR, FBI

11-17-73

FROM: SAC, NEW ORLEANS

11-17-73

MEMORIAL SERVICE AND MARCHN BATON ROUGE, LOUISIANA,
11/16/73, COMMEMORATING DEATHS OF TWO STUDENTS, SOUTHERN
UNIVERSITY, BATON ROUGE, LOUISIANA, ON 11/16/72, CIVIL
UNREST.

MARCH AT LOUISIANA STATE UNIVERSITY AND MEMORIAL SERVICE
AT SOUTHERN UNIVERSITY, BATON ROUGE, LOUISIANA, HELD 11/16/73,
WITHOUT INCIDENT.

**FILE
T. J. WILSON**

INTERNAL SECURITY DIV.
Criminal Section

Copy to

"This document contains neither recommendations
nor conclusions of the FBI. It is the property
of the FBI and is loaned to your agency; it and
its contents are not to be distributed outside
your agency."

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144-32m-9	
DEPARTMENT OF JUSTICE	
24	NOV 20 1973
R.A.O.	
CRIMINAL-GEN. CRIME SEC.	

T. 11/19/73

DEC 11 1973

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

JRW:ryh
DJ 144-32M-9

Jeffrey R. Whieldon
Attorney
Criminal Section
Grand Jury Plan
Southern University
Baton Rouge, Louisiana

11/20/73
WLL
12/3/73

This plan is being prepared at the request of K. William O'Connor to whom a Memorandum has already been submitted recommending an investigative grand jury in this matter. Mr. O'Connor returned that Memorandum with the request that a grand jury plan be prepared and that the Bureau be requested to obtain voices of the three chief suspects (Cambre, Story and Potts) on tape so that a comparative analysis could be made with an existing recording. Such a request, as well as requests for other information which might be helpful at this stage, was made on October 26, 1973. A copy is attached.

This attorney was orally advised on November 16, 1973, that a Bureau report had just been received which indicated that the requested investigation has, for the most part, met with negative results. This was not unexpected. Specifically, Cambre, Story and Potts refused again to submit to a lie detector test or to provide a recording of their voice saying certain specified words. Gary Wall is in Texas and the Bureau is trying to locate him. D'Army Bailey said that all information which he had would have to be disclosed through his attorneys in Baton Rouge. They are being contacted. Amiss, Rives and Sliman will submit to polygraph examinations. Although it is understood that Amiss was not pleased by such request, he states that he agreed in order to maintain credibility in the black community. Mike Henderson cannot be located.

cc: Records Gardner
Chrono O'Connor Whieldon

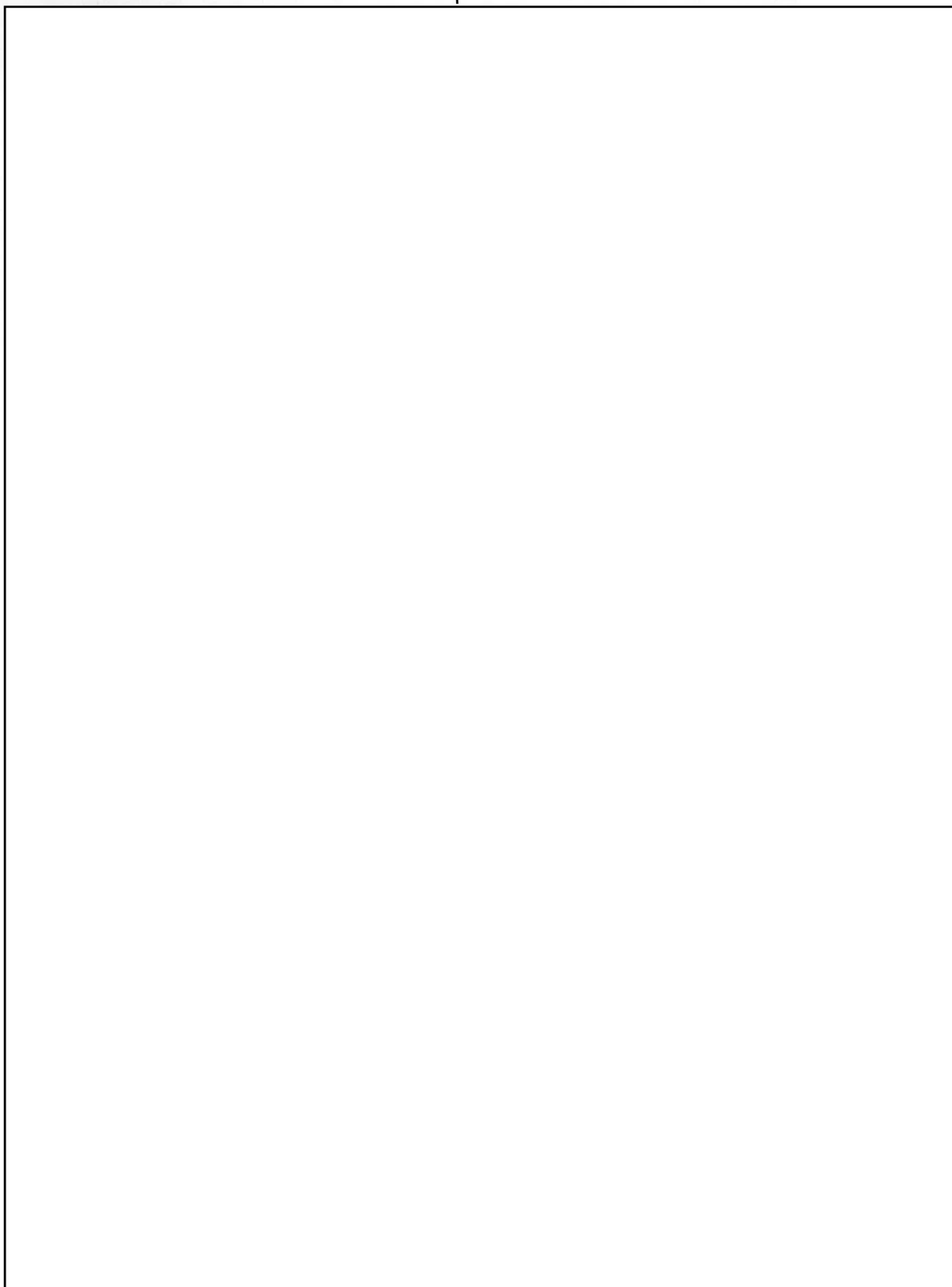
Collins did not record the incident itself. It is not anticipated that the polygraph examinations of Amiss, Rives or Sliman, or the information from Bailey's attorneys will yield any startling results.

Pursuant to Mr. O'Connor's request, what follows is a brief outline containing a list of witnesses that might be subpoenaed before a federal grand jury and the type of evidence that we would hope to elicit. Suffice it to say that the single objective of such a grand jury, at least from an evidentiary point of view, is to develop information which might lead to the identification of the subject responsible for the fatal shooting. It is, of course, not known what form such disclosures might take.

The following specific groups and individuals, with the limitations shown, would be subpoenaed to testify:



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



- 4 -

The above list is by no means exhaustive but merely represents those persons who, from their interviews, appear to have some information which arguably should be tracked down in order to exhaust all possible leads. Depending on time and results from earlier witnesses, others may be added or some may be deleted.

8. The grand jury should also be shown pertinent still photographs, TV newsfilm and tape recordings. Such showing will probably be integrated with certain testimony which would give the video or audio evidence more meaning.

In conclusion, it should be reiterated that the sole purpose of an investigative grand jury at this time would be to identify the responsible subject. If this is accomplished, we will then proceed to put on such additional evidence as may be necessary to determine if a violation of 242 occurred.

It was learned on December 7, 1973 from United States Attorney Gonzales that civil suits on behalf of the dead victims' parents had been filed on November 7, 1973. One suit was filed as to each victim in the 19th Judicial District, East Baton Rouge Parish under the Louisiana Wrongful Death statutes and one filed on behalf of each victim in federal court (Judge E. Gordon West) under 42 USC 1983, et seq. Each complaint prays for relief amounting to \$2,326,000. There are 31 named defendants in each complaint from the Governor on down. Many deputies are named, including Potts and Wall, but Story and Cambre are omitted, the reason unknown. Copies of pleadings are being obtained.

T. 10/26/73

Director
Federal Bureau of Investigation

OCT 26 1973

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

JSP:WLG:JRW:hdt
DJ 144-324-9

Unknown Subjects, Deputies;
East Baton Rouge Parish Sheriff's Office
East Baton Rouge Parish, Louisiana
Denver Allen Smith (Deceased);
Leonard Douglas Brown (Deceased) - Victims
Summary Punishment
CIVIL RIGHTS

Reference is made to your memorandum dated September 10, 1973, enclosing one copy of a letter-head memorandum in the above-captioned matter dated September 7, 1973 at New Orleans.

Please conduct the following additional investigation:

1. Interview East Baton Rouge Parish Deputies Melvin Story and Paul Potts and former Deputy Wayne Cambre as follows:

a. First, ask each if he will voluntarily submit to the taping of his voice under the guidelines

cc: Records
Chrono
Murphy
Gardner
NIM Whieldon ✓
USA - Shreveport, La.

set out below and limited solely to saying the words, "I got 'im, I got 'im Gene." If they will so submit, make the recording in the manner set out in the footnote below.*

b. If the response to the request in (a) above is no, then ask each of the three if they have changed their mind as to voluntarily submitting to a polygraph examination. If the response to (a) above is yes, then ask for polygraph examinations, but only after securing their words on tape.

Note that since Cambre was terminated by the Sheriff's Office that fact should be brought to his attention when he is asked to submit to either of the above. Hopefully, if he is not the subject, the fact of his departure might influence his willingness to cooperate at this time.

* George O. Verven, voiceprint expert at the Bureau laboratories in Washington (extension 2704) should be contacted by the agent to make the recordings prior to initially approaching the suspects in this regard. Equipment and facilities for taping should be available at the time of initial contact so that the recording can be made on the spot if agreed to by suspects.

The following conditions will be elaborated on by Mr. Verven. Recordings should be made with the same recorder and microphone (owned by Henry Baptiste), if possible. The same words in the same sequence as the original should be recorded. ("I got 'im, I got 'im, (pause) Gene," not "I got him"). The words should be spoken in a similar manner, speed and intonation, if possible. The words should be recorded about six times, some right into the microphone, some back a few feet.

Note that the original tape, if still available, should also be sent to Verven along with any recordings provided by suspects.

2. Determine from former Deputy Gary Wall if he has made a final decision whether or not to submit to a polygraph examination. If he will so submit, administer the examination. Since Wall is also apparently no longer with the Sheriff's Office, point out this fact in the hope he might now be willing to disclose any information he may have as to the possible identity of a subject. (Note that based upon Bureau analysis, Wall is not likely to be the subject who fired the fatal shot).

3. Interview D'Army Bailey, former Councilman, City of Berkeley, California, and Co-Chairman, Black People's Committee of Inquiry, for any information he may have as to the identity of the subject. Note that Bailey told the press last summer that he had been informed of the identification of the deputy who fired the fatal shot. Determine his source and the name of the subject. Indicate that such information will be treated with complete confidentiality and disclosed only to the Civil Rights Division.

4. Make additional efforts to locate and interview Mike Henderson (p. 280, report of December 1, 1972), formerly a part-time photographer for WRBT-TV, with reference to the relevant tape recording and determine whether he can identify himself and others, specifically with reference to the words, "I got him, I got him, Gene."

5. Determine whether the tape recording made by Robert Collins, reporter for radio station WJBO, contained any live recording of the incident itself or shots fired. Collins describes in his interview (p. 360, report of December 8, 1972) that he spoke into his recorder as events unfolded on the scene. Obtain a copy of that recording.

6. Determine whether Chief Deputy Eugene Rives, Major Fred Sliman or Sheriff Al Amisa will submit to a polygraph examination concerning their knowledge of the identity of a subject or key suspects. If so, conduct such examinations and as to each ask specifically his knowledge of the source of the words "I got him, I got him, Gene" on the tape. Also ask Rives if the "Gene" could refer to him.

7. Re-interview black Lieutenant Dalton Honore at his residence. In so doing do not advise any authorities of the Sheriff's Office or Parish Attorney that such an interview is being conducted. Determine from Honore whether he or other black deputies have any further information concerning the narrowing of suspects or their identity. (Note that Honore previously provided information that suspects had been narrowed to three and that it was an individual in the Narcotics Section who owned his own weapon. See page 84 of the report of December 15, 1972).

T. 12/10/73

DEC 11 1973

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

Robert A. Murphy
Chief
Criminal Section

RAM:vap
DJ 144-32M-9

Shootings at Southern University,
Baton Rouge, Louisiana
ACTION MEMORANDUM

Jaw
12/10/73

I concur in the recommendation of Jeff Whieldon and Bill Gardner, to convene an investigative Grand Jury with the limited purpose of identifying the individual or individuals who shot and killed the two students at Southern University. I recommend that you approve the use of a Grand Jury for this limited purpose.

Approved _____

Disapproved _____

Let's Discuss _____

Comments:

Jeffrey Whieldon
Ext. 4074

cc: ~~Records~~
Chrono
O'Connor
Murphy
Gardner
Whieldon

T. 12/3/73

Robert A. Murphy
Chief, Criminal Section

WLG:ljr

William L. Gardner
Deputy Chief
Criminal Section

DJ 144-32M-9

Shootings at Southern University,
Baton Rouge

WLG
12/3/73
Attached hereto is Jeff Whieldon's suggested Grand Jury plan requested by Mr. O'Connor. I endorse Jeff's proposal and add the following comments on the question of whether the Grand Jury should investigate this matter further.

Because it appears obvious Ossie Brown feels he cannot turn over state grand jury transcripts, we should subpoena them. The transcripts would show, at a minimum, how thorough the local probe was and what questions were left unexplained.

There can be no question that in our search to identify the deputy who fired the fatal shot we need to examine, in as extensive and detailed a fashion as possible, every potential witness in the area. We all know that regardless of how thoroughly the Bureau interviews a person, one or two prosecutors in a grand jury with an overview of the entire case can develop a witness' testimony far more thoroughly and accurately than one agent. Moreover, the opportunity would exist to confront witnesses with discrepancies in their testimony based on what other witnesses have said, and to recall witnesses if necessary as the investigation develops. It is also possible that given

cc: Records ✓
Chrono
O'Connor
Murphy
Gardner
Whieldon

the passage of time there has been considerable discussion of the incident among both deputies and students. Every attempt should be made to track down any leads developed as a result of such conversations.

Although the voiceprint analysis lead is slender at best, the grand jury can require Cambre, Story and Potts to provide a voice exemplar. Their only basis for refusal would be their Fifth Amendment privilege. If, as I think will happen, the evidence will point increasingly to Cambre, we could immunize Story and Potts, and eliminate them based on the voiceprint. Certainly, a strong possibility exists of eliminating the present alignment of deputies which pits the "secret few" against the investigators.

Overall, I see no justifiable basis for taking Jackson State and Kent State to a grand jury but not Southern.

T. /12/5/73
JSP:JRW:ryh
DJ 144-32M-9

DEC 13 1973

Mr. Ossie Brown
District Attorney
Nineteenth Judicial District
East Baton Rouge Parish
233 St. Ferdinand Street
Baton Rouge, Louisiana 70801

Dear Mr. Brown:

Your recent correspondence to the Attorney General, regarding the incident at Southern University, Baton Rouge, Louisiana of November 16, 1972, has been forwarded to this Division for reply. Please excuse the delay in responding.

No departmental decision has yet been made to present evidence in the Southern University shooting to a federal grand jury. The present posture of the matter in this Department is that all the evidence is currently being evaluated to determine whether a federal grand jury should be convened or whether the file in the matter should be closed. All investigatory reports in the possession of this Department have already been turned over to your office for your use as you requested.

Should other new evidence come to our attention, you may be sure we will share it with you. In the meantime, if you have any further questions about the status of this matter, or its further development, please do not hesitate

cc: Records
Chrono
O'Connor
Murphy
Gardner
Whieldon

to contact myself or Robert A. Murphy, Chief, Criminal
Section, whom you may reach on 202-739-4067.

Thank you for your concern in this matter.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division



OSSIE BROWN
DISTRICT ATTORNEY

Nineteenth Judicial District
EAST BATON ROUGE PARISH
OFFICE OF THE DISTRICT ATTORNEY

Baton Rouge, Louisiana

November 16, 1973

233 ST. FERDINAND STREET
TELEPHONE (504) 348-6621

Honorable Robert Bork
Attorney General of the United States
Department of Justice
Washington, D. C.

Re: Southern University Probe

Dear Mr. Bork:

I trust that I will receive at least the courtesy of a reply from you which Mr. Richardson failed to show me while he was Attorney General of the United States. I am enclosing a copy of a letter addressed to him which is self-explanatory. I would deeply appreciate your checking with the civil rights division to determine the answers to certain questions I have raised because the above mentioned matter was pretermitted by the East Baton Rouge Parish Grand Jury, which means that evidence can still be received in this matter.

As stated above, I would appreciate the courtesy of a reply to this letter.

With kindest regards and best wishes, I remain

Very truly yours,

OSSIE BROWN
District Attorney

OB/bg

encl. ✓

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24	NOV 23 1973
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RECORD	



OSSIE BROWN
DISTRICT ATTORNEY

Nineteenth Judicial District
EAST BATON ROUGE PARISH
OFFICE OF THE DISTRICT ATTORNEY

Baton Rouge, Louisiana

233 ST. FERDINAND STREET
TELEPHONE (504) 348-6621

October 4, 1973

Honorable Elliott Richardson
Attorney General of the United States
Department of Justice
Washington, D.C.

Re: Southern University Probe

Dear Mr. Richardson:

I have been informed that the Civil Rights Division of the Justice Department has requested and has been granted the convening of a Federal Grand Jury to investigate the Southern University incident of November 16, 1972, which occurred here in Baton Rouge. I am writing this letter because I feel it strange indeed that the Justice Department, which originally investigated the incident, would wait one year before taking such action.

Let me point out certain facts to you with which you may not be familiar. I did not take office as District Attorney of East Baton Rouge Parish until January 3, 1973; therefore, any investigation begun by me, of necessity, had to wait until that time. The FBI made an investigation, in conjunction with the Justice Department, sending numerous agents into Baton Rouge for a lengthy period of time after this unfortunate incident, and this information was available to the East Baton Rouge Parish Grand Jury which was convened to hear all the circumstances and facts surrounding the Southern incident after I took office. Also, a commission composed of various citizens was established by the Governor of the State of Louisiana and was appointed by the Attorney General of the State of Louisiana, to undertake an investigation, which was done. This commission furnished the East Baton Rouge Parish Grand Jury an assistant attorney general to assist in the presentation of the evidence to the Grand Jury of East Baton Rouge Parish. Neither of these investigations was able to determine which individual fired the fatal shot resulting in the deaths of the two Southern students.

Honorable Elliott Richardson

Page 2

October 4, 1973

The East Baton Rouge Parish Grand Jury, comprised of nine white men and three black men, all respected citizens of our parish, heard days of testimony and viewed hours of photographs and statements. The Grand Jury heard testimony from sixty-seven witnesses, all who were required to sign a Waiver of Immunity before testifying before the Grand Jury. Every law officer present at Southern University on November 16, 1972, was called and did testify after signing this same Waiver of Immunity.

After hearing all the evidence and the testimony, the East Baton Rouge Parish Grand Jury pretermitted this matter leaving it open for the presentation of new evidence since the Grand Jury was unable to arrive at any definitive conclusion, being in the same situation as your representatives and the State Commission. Nothing was withheld from the Grand Jury and let me hasten to add that the integrity of the men who sat on this Grand Jury is unimpeachable. Their character is without blemish. Regardless of the circumstances, I am convinced that if it had been humanly possible to determine the person firing the shot in this instance this group of men would have taken that action and would have done so unhesitatingly. For anyone to intimate in any way that these men did less than anyone else would have done with the evidence they had is indeed unfair.

After the Grand Jury pretermitted this matter, two of your representatives came to see me along with Mr. Douglas Gonzales, United States Attorney for the Middle District of the State of Louisiana. At that time I gave them all of the information I was permitted to give under law and also names of persons they may contact. I am making this inquiry as District Attorney of this Parish because I feel that the Grand Jury and I have discharged our obligations and responsibilities in a just, fair and honorable manner. If you feel that we have been derelict in the performance of these duties, I feel that we should be so informed.

If you have any new evidence which your FBI agents did not present to us originally, I feel that you and the federal government owe it to the people of this parish and this state to give that information to the new Grand Jury which has the full power to continue with this investigation. Therefore, I hereby am requesting that if you do have such information which has not been made available to this office or to the East Baton Rouge Parish Grand Jury, that you kindly forward this evidence to us for presentation to the Grand Jury.

Honorable Elliott Richardson

Page 3

October 4, 1973

I stated upon my being elected District Attorney that I would not be satisfied with anything in this parish less than equal justice to everyone. I shall be bound by this commitment for so long as I remain District Attorney.

Please accept this letter as a request for new evidence, if there be any, and as a personal assurance on my part that we shall continue to investigate as long as there is any chance of bringing forth newly discovered evidence and testimony.

With best wishes and warmest regards, I remain

Very truly yours,

OSSIE BROWN
District Attorney

OB/bg

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OSSIE BROWN
DISTRICT ATTORNEY

OCT 9 1 35 PM '73

DEPT. OF JUSTICE
MAIL ROOM
OROM

Nineteenth Judicial District

EAST BATON ROUGE PARISH
OFFICE OF THE DISTRICT ATTORNEY

Baton Rouge, Louisiana

October 4, 1973

OCT 10 10 09 AM '73
DEPT. OF JUSTICE
MAIL ROOM
OROM
233 ST. FERDINAND STREET
TELEPHONE (504) 348-6621

Honorable Elliott Richardson
Attorney General of the United States
Department of Justice
Washington, D.C.

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OCT 9 1973

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DEPARTMENT OF JUSTICE	
24	OCT 9 1973
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Honorable Elliott Richardson

Page 2

October 4, 1973

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If you have any new evidence which your FBI agents did not present to us originally, I feel that you and the federal government owe it to the people of this parish and this state to give that information to the new Grand Jury which has the full power to continue with this investigation. Therefore, I hereby am requesting that if you do have such information which has not been made available to this office or to the East Baton Rouge Parish Grand Jury, that you kindly forward this evidence to us for presentation to the Grand Jury.

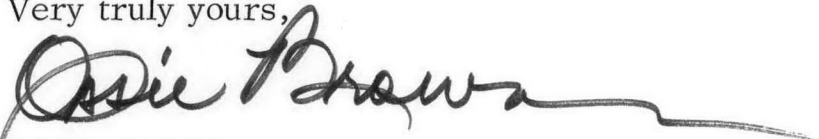
Honorable Elliott Richardson
Page 3
October 4, 1973

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Please accept this letter as a request for new evidence, if there be any, and as a personal assurance on my part that we shall continue to investigate as long as there is any chance of bringing forth newly discovered evidence and testimony.

With best wishes and warmest regards, I remain

Very truly yours,

A handwritten signature in cursive script, reading "Ossie Brown", followed by a long horizontal flourish.

OSSIE BROWN
District Attorney

OB/bg

DOCKED
OCT 10 2 13 PM '73
CLINT HIGGINS DISTRICT
RECEIVED

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO :The File

DATE: DEC 19 1973

FROM ^{WLG} William L. Gardner
Deputy Chief
Criminal Section

WLG:ljr

DJ 144-32M-9

SUBJECT Grand Jury Recommendation

Mr. O'Connor called this morning to discuss the recommendation which the Criminal Section has made to use the federal grand jury to investigate further the SUBR incident. Mr. O'Connor stated that he will call Ossie Brown himself and determine exactly what information or evidence Brown will furnish about the local grand jury proceedings. If Brown says we must take his word that the grand jury generally heard the matter completely, Mr. O'Connor indicated that would be unacceptable. If, however, Brown will furnish us with transcripts or a summary of the evidence put on, we would review that evidence for a determination of whether a thorough presentation had been made. If it appears further work would be required, we would give him the opportunity to do so before considering grand jury action.

T. 1/18/74
ReT. 1/23/74
JSP:KWO'C:JRW:bmp
DJ 144-32M-9

12-22-73

29 JAN 1974

Honorable J. Bennett Johnston
United States Senate
Washington, D. C. 20510

Dear Senator Johnston:

This is in response to your recent letter requesting the reopening of our investigation into the shooting deaths of two students at Southern University, Baton Rouge, on November 16, 1972. I apologize for the delay in responding.

The shootings of Denver Smith and Leonard Brown on November 16, 1972, have been investigated by the Federal Bureau of Investigation. We have been advised that an East Baton Rouge Parish grand jury heard evidence in the matter and pretermitted its investigation during the summer. Since that time we have requested additional investigation and we are currently in the process of evaluating the available evidence to determine whether or not a federal grand jury should be convened.

I should advise that, contrary to Mr. Simmons' use of the word "reopening," this matter has been, and is, "open" and has been under continuous investigation and consideration since it occurred.

cc: Records
Chrono
Pottinger
O'Connor
Hubbard
Peterbark
Corres. Unit

Whieldon
Durham

A final decision as to what, if any, federal action will be taken will be made when our investigation has been concluded and the facts developed have been evaluated.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

PLEASE EXPEDITE

THIS MAIL SHOULD BE

ACKNOWLEDGED WITHIN 48 HOURS

From
THE ATTORNEY GENERAL

1/7

Deputy Attorney General-----	
Solicitor General-----	
Director of Public Information-----	
Assistant Attorney General for Administration-----	
Assistant Attorney General, Antitrust-----	
Assistant Attorney General, Civil-----	
Assistant Attorney General, Civil Rights-----	
Assistant Attorney General, Criminal-----	
Assistant Attorney General, Land & Nat. Resources-----	
Assistant Attorney General, Legal Counsel-----	
Assistant Attorney General, OLA-----	
Assistant Attorney General, Tax-----	
Administrator, DEA-----	
Administrator, LEAA-----	
Chairman, Board of Immigration Appeals-----	
Chairman, Parole Board-----	
Commissioner, I&NS-----	
Director, Bureau of Prisons-----	
Director, Community Relations Service-----	
Director, FBI-----	
Pardon Attorney-----	
Records-----	

Attention Hugh Durham

REMARKS:



32N 9

5-Criminal
request innes.

ALAN BIBLE, NEV., CHAIRMAN

JOHN SPARKMAN, ALA.
GAYLORD NELSON, WIS.
THOMAS J. MCINTYRE, N.H.
SAM NUNN, GA.
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FLOYD K. HASKELL, COLO.
DICK CLARK, IOWA

JACOB K. JAVITS, N.Y.
PETER H. DOMINICK, COLO.
ROBERT DOLE, KANS.
EDWARD J. GURNEY, FLA.
J. GLENN BEALL, JR., MD.
JAMES L. BUCKLEY, N.Y.
WILLIAM L. SCOTT, VA.

CHESTER H. SMITH,
STAFF DIRECTOR AND GENERAL COUNSEL

United States Senate

SELECT COMMITTEE ON SMALL BUSINESS
(CREATED PURSUANT TO S. RES. 58, 91ST CONGRESS)
WASHINGTON, D.C. 20510

December 22, 1973

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The Honorable William B. Saxbe
The Attorney General
Washington, D. C.

Dear Mr. Attorney General:

I have recently been written by Mr. Norbert A. Simmons, the attorney for the two young men who were killed on the Southern University campus in Baton Rouge on November 16, 1972. Mr. Simmons is a well respected attorney in New Orleans, and I am pleased to communicate this request to you on his behalf. He has informed me that he is pressing for the re-opening of the Justice Department investigation into those killings, in the light of the report issued by the Attorney General of the State of Louisiana. This report concluded that the killings were unjustified, and that they were perpetrated by one or more of several law enforcement officials employed to put down the disturbance at Southern. But it stops short of naming specific officer or officers responsible for the deaths.

In addition, Mr. Simmons cites to me what he believes to be precedent for such a re-opening, the Kent State case. In that case, subsequent to an initial Justice Department investigation, new facts were uncovered that pointed to probably violations of constitutional rights and the re-opening occurred because of those facts.

I, of course, would like to see the issues finally answered as to those responsible for the killing of the students, and as to whether any of their constitutional rights were violated. I hope, therefore, that you will give Mr. Simmons' request your full and prompt consideration.

With kindest regards,

Sincerely,

J. Bennett Johnston
United States Senator

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DEPARTMENT OF JUSTICE

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ATTORNEY GENERAL

CIV. RIGHTS DIV.