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THE FBI,
THE DEPARTMENT OF JUSTICE
and
GARY THOMAS ROWE, JR.

JULY 1979

Task Force Report On Gary Thomas Rowe, Jr.

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TABLE OF CONTENTS

I.	Mission of the Task Force	1
II.	Summary of Findings	4
III.	Historical Background	17
IV.	Rowe Becomes an Informant	30
V.	Incident at the Trailways Bus Station - May 14, 1961	48
VI.	May 1961 - June 1963	65
VII.	Rowe and the Birmingham Bombings and the Shooting of an Unidentified Black Man in 1963	74
	A. The Bombings	74
	B. The Shooting of an Unidentified Black Man	97
VIII.	January 1964 - March 24, 1965	105
IX.	Rowe and Eastview 13 Informant "Huey Lipscomb"	133
X.	The Killing of Viola Liuzzo	147
	A. Undisputed Facts	147
	B. Accounts of Gary Thomas Rowe	161
	C. Accounts of Eugene Thomas and Collie Leroy Wilkins	187
	D. Account of Leroy Moton	214
	E. Account of Lavaughn Coleman	222
	F. The Federal Grand Jury	224
	G. Physical Evidence	228
XI.	The Prosecution of <u>United States v. Eaton, et al.</u>	238
	A. What Civil Rights Division Attorneys Knew About Rowe From the FBI	238
	B. What the FBI and the Civil Rights Division Knew About Rowe's Apparently Untrue Statements	246
	C. Why the Department and the FBI Never Suspected Rowe in the Liuzzo Killing	253

XII.	Gary Thomas Rowe - The Aftermath	257
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Appendix

I.	Method of Review	1
II.	Rowe and the FBI's Counter Intelligence Program	8
III.	Handling FBI Informants	12
	A. FBI Rules and Regulations	12
	B. How They Operated in Practice	29
	C. Current Rules and Regulations	49

I. MISSION OF THE TASK FORCE

On July 12, 1978, Senators Edward M. Kennedy and James Abourezk sent a joint letter to the Department of Justice stating that the Senate Judiciary Committee was "intensely interested" in receiving a full report on an investigation into allegations that Mr. Gary Thomas Rowe, Jr., committed a violent crime while a government informant.

On July 8, 9, and 11, 1978, the New York Times had published reports that Gary Thomas Rowe, Jr., had taken part in violent crimes with klansmen while serving the FBI as an informant within the Ku Klux Klan in Birmingham from 1960 to 1965. In particular, the Times reported that in 1963, Rowe shot an unidentified black man, and was told by his handling FBI agent to keep quiet about it. ABC television had also shown in July 1978, a two-part documentary suggesting that Rowe fired the bullet which killed Viola Liuzzo, a civil rights worker who was shot on U. S. Highway 80 on March 25, 1965, following the Selma to Montgomery freedom march, and that he gave "indications of deception" when he told a polygrapher in 1978 that he had not fired into Viola Liuzzo's car. ABC also reported that Collie Leroy Wilkins gave a "truthful response" when he told a polygrapher that Rowe had fired toward the Liuzzo car in 1965.

After receiving the Senators' letter, Deputy Attorney General Benjamin Civiletti assigned the matter involving the unidentified black man to the Criminal Division

and the remaining allegations to the Department's Office of Professional Responsibility.

On August 1, 1978, Assistant Attorney General Philip B. Heymann informed the Deputy Attorney General that the Criminal Division needed full access to the FBI's files to complete its investigation and noted that the Statute of Limitations had run on any violations of Federal law that Rowe might have been committed in the early 1960's.

On August 16, 1978, FBI Director William H. Webster forwarded to the Counsel, Office of Professional Responsibility for the Department of Justice, a 510-page report on its preliminary inquiry of the Rowe allegations, based on a review of FBI files. After examining this and the Criminal Division's report, the Counsel requested the Attorney General to assign four attorneys to complete the Rowe inquiry.

On October 24, 1978, Attorney General Griffin B. Bell created a special task force of four attorneys to investigate and report on the following matters:

(1) Whether FBI personnel acted improperly in handling Mr. Gary Thomas Rowe while he served as a Bureau informant within the United Klans of America (UKA);

(2) Whether Civil Rights Division attorneys, who tried United States v. Eaton, et al. (the federal civil rights case arising out of the highway murder of Mrs. Viola Liuzzo), were aware of Mr. Rowe's alleged unreliability, or suspected he was unreliable; and

(3) Whether there is any evidence to substantiate the allegation that Mr. Rowe was

responsible for the death of Mrs. Viola Liuzzo (to the extent this is possible without prejudicing the rights of Mr. Rowe or the State of Alabama in view of Mr. Rowe's recent state indictment for the murder).

Ralph Hornblower, III, returning to the Department of Justice, was appointed to lead the Task Force, taking a leave of absence from a Washington, D.C. law firm. Three attorneys were selected from the Department of Justice; William M. Logan, Criminal Section, Tax Division; John R. Fleder, Consumer Affairs Section, Antitrust Division; Donald R. Burkhalter, Executive Office for United States Attorneys. Marydale Drury, an Intelligence Research Specialist for the Organized Crime and Racketeering Section, Criminal Division, was also appointed to the Task Force.

II. SUMMARY OF FINDINGS

The FBI paid Gary Thomas Rowe, Jr. to inform on the Ku Klux Klan from 1960 to 1965 -- a time when the city of Birmingham was in the throes of a violent civil rights struggle. Extremists were at that time bombing churches and homes, protesting the civil rights movement. The FBI believed that a hard core of klansmen in the Eastview 13 klavern of the Alabama Knights of the Ku Klux Klan were responsible for much of the violence. Rowe was recruited to infiltrate their ranks.

He rose rapidly and soon became a confidant of several klan leaders. He gave the Bureau more and better information than any klan informant in the city. Following Bureau policy, Rowe's handling agents first instructed him to get close to the klansmen to find out what they were doing, but to stay away when things got violent. However, both Rowe and some of the agents soon recognized that he would never penetrate the inner circle responsible for the violence without taking part, at least to some extent, in its planning and execution. Nonetheless, the agents warned him that, if he did get involved in violence, the Bureau would disown him and treat him like a common criminal. This did not prove to be the case. When agents learned that Rowe had taken part in klan beatings, they apparently never reported him to local authorities or terminated him as an informant. While the files do not say so specifically,

it seems clear that he was simply too valuable to abandon. The Task Force found evidence indicating that some agents failed to report to their superiors all they knew about his violent activities.

Rowe told the Task Force that he established his credibility in the klan by beating up blacks and civil rights demonstrators on city buses and at lunch counters, but nothing in FBI files indicates that he told his agents about it. On the contrary, on August 3, 1961, he had told the FBI that he was able to persuade Eastview 13 not to commit violence on city buses. He now boasts that he frequently fought and raised hell on his "own time" and did not report it to the FBI because it was "none of their business".

During his first three years with the FBI, Rowe reported that he was merely present only a few times when klan violence broke out. One occasion was a night ride to rough up an elderly white couple who was raising a black child, and another was an attack on blacks at a local carnival. (Rowe now says that he threw a sheet over the old man's head, and beat up several blacks at the carnival.) In another incident, Rowe reported that he was present when a group of klansmen beat up a black person at a lunch counter. Rowe now says he assaulted two people. However, his reports to the FBI, given orally and later written up by his agent, only

vaguely describe the incidents without defining Rowe's role. In each case, there is nothing in the records at least to suggest that agents ever tried to find out what Rowe was really doing.

The most serious incident of Rowe's early years in the klan occurred at the Trailways bus station in Birmingham on May 14, 1961. Rowe reported several days in advance that the klan planned to attack a group of freedom riders arriving that day, and that Public Safety Director Eugene "Bull" Connor had promised klan leaders fifteen minutes to do their work before the police moved in. The Bureau notified the Chief of Police at least four times that trouble was brewing, but did not place agents at the scene when it happened. The Task Force determined that of the hundreds of people at the station that day, Rowe was one of a handful most responsible for the beatings. The strongest evidence is a front page photograph published in the Birmingham Post-Herald the next day, showing Rowe beating up a freedom rider. In attempting to identify the attackers, Rowe's handling agent discussed the photograph with him several times, but apparently never told his superiors that Rowe was in the picture. Washington was informed only that Rowe had "peaceably demanded" film from some photographers.

However, on another occasion, the Task Force found that Rowe attempted to save the life of a prominent

civil rights leader. On July 20, 1962, he told the FBI that the klan's Grand Titan had appointed Rowe and four other klansmen to murder Rev. Fred L. Shuttlesworth, at a planned sit-in at a local airport restaurant. The Bureau alerted Shuttlesworth and the police of the plan, and foiled the klansmen waiting at the airport. Shuttlesworth did not appear and the klansmen were dissuaded from attacking anyone when an extra detail of police pulled into the restaurant.

The Bombings

Rowe has been alleged to have been involved in some of the bombings that struck Birmingham in 1963, including the bombing of the 16th Street Baptist Church. The Task Force could find no evidence that he was associated with the church bombing in which four young girls were killed. However, he now admits that he was present when klansmen firebombed the home of a prominent black businessman, A. G. Gaston, one week before the church was hit. Rowe says he told the FBI about the Gaston bombing, but the Task Force found nothing to support this. FBI agents vigorously deny any knowledge of Rowe's involvement in any Birmingham bombing.

Files obtained by the Task Force show that an all out, full field investigation of the 1963 church bombing led the FBI to identify four or five key suspects. In 1964, the Bureau interviewed two persons who reported that they had seen four white men , all klansmen, drive up to 16th Street

and Sixth Avenue in the early morning of September 15, 1963, only eight hours before the destruction occurred and at least one of the four walked toward the church carrying an object with a handle. Rowe was not among them.

The Birmingham field office urged the Bureau to present this evidence to the Department of Justice in order to obtain a prosecutive opinion, but Director Hoover overruled, explaining that the "chance of successful prosecution . . . is very remote." Consequently, the evidence remained in FBI files until over ten years later, when the State of Alabama opened a grand jury which lead to the murder conviction in 1977 of Robert Chambliss, one of the four men whom the informants spotted near the church that night.

The Task Force also discovered that Birmingham Police had seen Rowe near the site of another bombing at Sixth Avenue and Center Street in an all black neighborhood in West Birmingham on September 25, 1963. Rowe told the FBI that he was driving his girlfriend home when he heard an explosion and rushed to the nearest telephone booth -- to contact the FBI. Minutes later a shrapnel bomb also exploded. FBI files contain nothing which suggests that agents ever suspected he was involved, although he was in the vicinity of the bombings. Yet, there is evidence that Rowe knew more about the Center Street bombing than he let on when first contacted after the explosion. Seven months later he told his handling agent (apparently for the first time) that Chambliss and his associates had discussed how to make shrapnel bombs less than two weeks before the shrapnel bomb went off at Center Street.

Rowe told the Task Force that he shot a black man in self-defense at the height of a race riot in the fall of 1963, reported it to his handling agent, and was told to keep quiet about it. We found no evidence to support Rowe's story, and after interviewing city officials, including the County Coroner, discovered no City or County records to confirm it. If Rowe is telling the truth about this incident, then it is most likely that the man was injured and treated at one of the city's hospitals. Death records should have provided at least some corroboration for his story, but they do not. Rowe's handling agent at the time of the alleged shooting, insists that Rowe never told him about the shooting.

January 1964 - March 24, 1965

By late 1963, the Birmingham field office was able to develop other informants within Eastview 13 who began to report on Rowe. They told the office that Rowe had punched a newspaperman, apparently without provocation, and that he had participated in beating up blacks at a baseball field in Birmingham. Rowe himself told the FBI that he had become leader of one of the klan's most violent "action squads". When Headquarters found out, he was ordered to step down as squad leader, but allowed to remain on the squad. Reports that Rowe was deeply involved in klan violence apparently never triggered investigations into precisely what he was doing with his Eastview associates. As long as he was providing good intelligence, the Birmingham field office appeared willing to overlook Rowe's own involvement.

"Huey Lipscomb"

The FBI was able to develop another informant named Huey Lipscomb [1] from the Eastview "inner circle" in late 1963. The Task Force discovered that Lipscomb planned and carried out serious acts of violence, both before and while he served as an FBI informant from 1963 through 1965. The record shows the FBI was fully aware of Lipscomb's background and criminal activities, including his taking part in planning the murder of Reverend Fred Shuttlesworth, before making him an informant. Yet we found no evidence that the Bureau sought to limit his violent and unlawful activity while they were paying him for intelligence on the klan.

The Killing of Viola Liuzzo

On March 25, 1965, a civil rights worker from Detroit, named Viola Liuzzo, was shot and killed while driving on U.S. Highway 80, following the Selma to Montgomery freedom march. Gary Thomas Rowe, Jr. immediately reported to the FBI that he was in the car from which the fatal shots were fired. Based in part on President Johnson's request, the Bureau opened a massive investigation and arrested the car's three other occupants the day after the shooting. Criminal charges were filed against Collie Leroy Wilkins, Eugene Thomas and William O. Eaton in state and federal courts. With Rowe as the Government's star witness in two state murder trials and one federal civil rights trial, Wilkins

1. All informants' names have been changed in this report in order to protect their identities.

was acquitted in state court, but all three were convicted in federal court for violating Mrs. Liuzzo's civil rights and sentenced to serve ten year prison terms. Rowe was not charged in connection with the Liuzzo killing until 1978, when he was indicted for murder by an Alabama grand jury. The Alabama investigation began after Wilkins and Thomas accused Rowe of murdering Mrs. Liuzzo in a July 1978 ABC-TV documentary.

Rowe testified under oath in all three trials and has talked about the Liuzzo killing for the record eight other times. Much of what he has said about the night of March 25 remains consistent throughout all the accounts. But we did discover jarring discrepancies in key aspects of his 1965 testimony and of the accounts he gave in 1975 and later. For example, Rowe now says he saw Wilkins shoot both Viola Liuzzo and her passenger, but in 1965 he testified that he told Wilkins after the shooting that he [Wilkins] had missed. Rowe now says under oath that the klansmen returned to the Liuzzo car immediately after the shooting, but in 1965 he testified in court that they never turned back. He made other inconsistent statements, but on the ultimate question -- who killed Viola Liuzzo -- he has steadfastly maintained his innocence.

Collie Leroy Wilkins, Eugene Thomas and William O. Eaton

Klansmen Eugene Thomas and Collie Leroy Wilkins were in the car with Rowe the night Mrs. Liuzzo was killed as was William O. Eaton, who died shortly after the three were

convicted in federal court of violating her civil rights. Both Thomas and Wilkins, zealous segregationists, had a history of violence before Mrs. Liuzzo was shot. Thomas was a high official in the Alabama klan, and a close personal friend and mentor to Wilkins, twenty years his junior.

Although they distrusted Rowe and may have suspected he was a Government informant, they allowed him to travel with them to Montgomery on March 25, 1965, supposedly to watch the freedom marchers. They told the Task Force they did not plan any violence, but both Eaton and Thomas were armed. Wilkins, on probation for a federal firearms violation, did not bring a gun.

Although Thomas' and Wilkins' 1979 accounts of what happened on March 25, 1965, are consistent on some basic points, there are discrepancies on these issues: how Rowe happened to be invited on their Montgomery trip, what was said in the car before and after the shooting, how Rowe reacted to the marchers, how many shots were fired, who fired first, where they went after the shooting and how they conspired to cover it up.

Thomas also gave the Task Force an account which is inconsistent with what he said shortly after his arrest in 1965: namely, where they were seated in the car, and what Thomas did with his gun on March 25th.

Thomas and Wilkins now say that at the three trials they did not accuse Rowe of firing the fatal shots because

their attorneys advised them to keep quiet. To have admitted on the stand that they were in the car would have made their convictions on accessory charges much more likely, they said. They could not adequately explain why they failed to speak out after their convictions, however. Thomas vaguely said he was afraid of jeopardizing his parole, and Wilkins merely offered that no one in authority or in the press had ever asked him whether he, in fact, killed Mrs. Liuzzo.

Given their history of violence, their conflicting stories about the shooting, their failure to accuse Rowe before 1978, and their obvious desire for revenge, neither Wilkins nor Thomas make credible witnesses.

Leroy Moton

Although Rowe continues to insist that Leroy Moton was not the black man in the car with Mrs. Liuzzo on the night she was killed, all available evidence is to the contrary. FBI records clearly document what Moton did and where he went after the shooting. Numerous witnesses confirm that Moton drove Mrs. Liuzzo's car throughout March 25th, and several people saw them together in her car that afternoon. FBI interview reports establish that he was picked up near the scene of the shooting and that he immediately reported the shooting to his rescuers, who then notified the FBI. Agents were able to interview him four hours after the incident.

Physical Evidence

FBI laboratory analysis clearly established Eugene Thomas' .38 revolver as the murder weapon. Ballistic tests

taken shortly after the killing proved that the bullet found lodged in Liuzzo's spine was fired from Thomas' gun. However, no one claims that Thomas or Eaton fired it because Thomas was driving, and all agree that Eaton had a .22. As there were no fingerprints taken from the murder weapon or shell casings, it is impossible to determine, on the basis of physical evidence, who actually fired Thomas' gun. The FBI agent who seized the weapon at Thomas' house on March 26, 1965, concluded on first inspection that the gun had been wiped clean, and consequently, in a possible violation of Bureau policy, never ordered a fingerprint check.

The Prosecutions

Gary Thomas Rowe testified at the second Wilkins' murder trial and the federal civil rights trial that he did not take part in the violence at Trailways on May 14, 1961, and that he did not appear in a Saturday Evening Post photograph of the incident.

In 1975, Rowe admitted that he was in the picture and claimed that the FBI had instructed him to lie about it. He said the same to the Task Force in 1979. However, all of the FBI agents we talked to denied so instructing Rowe.

Former Assistant Attorney General John Doar was shown the picture at the federal trial, but does not recall asking Bureau agents or Rowe whether Rowe was in fact in the picture, even though Rowe had been questioned about it at the second state trial -- testimony which the Civil Rights Division reviewed before the federal trial.

Civil Rights Division attorneys assigned to the Liuzzo case asked the Bureau for complete background information on Rowe, Thomas, Wilkins and Eaton, and on the Bessemer and Eastview klaverns, along with other investigative information on the Liuzzo killing. The Division also searched its own files and found three instances in which Rowe was apparently involved in violence, but this did not cause them to suspect Rowe as the killer. In accordance with FBI policy, the Bureau did not provide the Department with all the information from their files on Rowe. It was difficult, therefore, for the prosecutors to make an informed evaluation of Rowe's credibility. However, we found no evidence that the FBI deliberately withheld information about Rowe from the prosecutors for the purpose of eliminating Rowe as a suspect in the shooting.

We found no evidence that any FBI agents or Department attorneys who worked on the case ever believed that Rowe fired the fatal shots on the night of March 25th.

The FBI Guidelines

The Task Force closely examined FBI regulations governing the use of informants in the early 1960's. We discovered that the FBI Manual of Instructions provided agents with no guidance on how to advise or control an informant found to have engaged in violence or most criminal activity, and we could locate, after months of searching in Washington and Birmingham, only a few documents which considered the subject at all. The Task Force interviewed eighteen FBI agents and nine informants to see how these rules operated in practice. Most of the supervisors and Headquarters officials told us

that informants were absolutely prohibited from taking part in violence, but several field agents said that klan informants had to participate in violence in order to penetrate the klan's inner circle and obtain critical information. Except for Rowe, all the informants we talked to said that their agents did, in fact, advise them to avoid violence and criminal activity, but many informants also strongly suggested that the only way to keep their cover and save their lives was to talk as if they were as violent as the klansmen they were associating with.

COINTELPRO

Rowe told the Senate Select Committee on Intelligence in 1975 that while working for the Bureau, an agent he believes to be Byron McFall told him that the FBI had "declared war" on the klan. Rowe says the agent used the word COINTELPRO, and instructed him to sleep with klan wives, foment dissension, report on political affiliations, and disrupt political campaigns. Our investigation indicated, however, that the FBI did not begin the COINTELPRO program against white hate groups until September 2, 1964, well after McFall had retired, and only six months before Rowe ended his career as an informant. The files show that the Birmingham field office initiated only two COINTELPRO actions while Rowe was an informant, and they consisted of anonymous mailings to selected klansmen and did not involve Rowe. We found no evidence that the Birmingham field office ever instructed Rowe or any other informant to sleep with klan wives or to disrupt political campaigns.

III. HISTORICAL BACKGROUND

Gary Thomas Rowe, Jr. worked for the Federal Bureau of Investigation as a paid informant within the ranks of the Ku Klux Klan in Birmingham, Alabama, from 1960 to 1965. These were critical years for the civil rights movement, especially in Birmingham, where some of the most important events of that era transpired. To evaluate properly the FBI's handling of Rowe, one must understand some of the historical forces at work in Birmingham at this time.

"The hardest problems of all in law enforcement," Attorney General Robert Kennedy told his audience, "are those involving a conflict of law and local custom." The occasion was Law Day exercises at the University of Georgia on May 7, 1961, the week Alan Shepard became the first American to fly in space, and only eight days before a mob would attack Freedom Riders at the Trailways bus station in Birmingham. Kennedy was using the forum at Law Day to make a major policy statement of the Administration's position on civil rights issues. [1]

Under the law, the Attorney General's options were limited. Before the passage of the Civil Rights Act of 1964, the federal government had only limited jurisdiction over major civil rights grievances - segregation of public facilities and discrimination in employment practices. Only in two areas, police brutality and voter intimidation, was federal jurisdiction undisputed, but these cases proved enormously difficult to prosecute.

1. New York Times, May 7, 1961.

The federal statutes covering civil rights violations and police brutality were codified in Title 18, United States Code, Sections 241 and 242 -- laws which dated from the Reconstruction Era and which had lain dormant until the 1940s. Section 241 is a conspiracy statute which requires the government to prove that two or more persons conspired to injure, oppress, threaten, or intimidate any citizen in the free exercise of his civil rights. [2] Federal prosecutors discovered that it was extremely difficult to convince hostile juries that the accused intended not only to inflict violence, but also to deprive the victim of his constitutional rights. Similar problems were encountered under Section 242, which applies to police officers and persons acting under the color of law who willfully deprive a victim of his civil rights. [3] Between January 1, 1958, and June 30, 1960, the Justice Department received 1,328 complaints of police brutality, of which 52 were prosecuted, resulting in six convictions. [4]

Then and now, primary responsibility for prosecuting those accused of doing violence lay with state and local authorities. Short of nationalizing the National Guard and establishing a kind of military occupation of the South, as the President can do under Titles 3 and 10 of the United

2. 18 U.S.C. 241 (1948).

3. 18 U.S.C. 242 (1948).

4. United States Commission of Civil Rights, Justice (1961).

States Code in cases of domestic violence and insurrection[5], the most effective course of action open to the federal government was to apply pressure, through the federal courts, upon state and local authorities to force them to execute their sworn duties, and to enforce their own laws in accordance with the United States Constitution.[6]

In his speech at the University of Georgia, Attorney General Kennedy stressed that the Justice Department would promote racial equality, first through mediation designed to reach voluntary compliance, and then when necessary, through the courts to enforce existing statutes, particularly those relating to voting rights. The policy was conceived with an eye on past history, particularly the Reconstruction Era, wherein gains made by blacks through force of northern arms were lost when northern troops left. There was a conviction within the Department, strongly held by Burke Marshall, Assistant Attorney General for Civil Rights, that the emphasis ought to be on achieving results through processes within the state and local institutions, and with a minimum of federal force. In that regard, the Kennedy Administration placed a high priority on the enfranchisement of black

5. 10 U.S.C. 331, 332, and 333. 3 U.S.C. 301.

6. See Brauer, Kennedy and the Second Reconstruction, 152 (1977). Bickel, Politics and the Warren Court, 112 (1965). Lord, The Past That Would Not Die, 247 (1965).

voters. [7] It was clear that no one in the administration wanted to develop a federal police force to enforce civil rights, which in any event would have been impractical and certainly would have set a dangerous precedent. [8] The civil rights movement and the development of confrontation politics soon forced the hand of the federal government in a number of crisis situations. But it is important to remember that in the period from 1960 to 1964, neither the Justice Department nor its Bureau of Investigation saw itself as the South's policemen.

The FBI viewed its role in these matters primarily as an intelligence gathering operation. When violent confrontations broke out between demonstrators and their opponents, the Bureau maintained that it had no police or arrest powers in such situations and that its proper role was to provide information about planned violence to the Department of Justice and the local authorities, who had the legal obligation to act. Moreover, in those situations requiring a federal presence to quell disturbances, the proper forces to serve that function under the Constitution were the United States Marshals or the National Guard.[9]

7. Marshall, Federalism and Civil Rights, 10-12 (1964).

8. John Doar Interview by Task Force, Mar. 27, 1979, 42-43. See also, Jackson, The Supreme Court in the American System of Government, 70 (1955).

9. Intelligence Activities - Federal Bureau of Investigation. 6 Hearings Before the Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities, 94th Cong., 1st Sess. 142 (1975) (Statement of James B. Adams).

As for the klan, the FBI believed that it was necessary to use informants from within to ascertain its plans for criminal activity, and in addition, to disrupt and neutralize the organization. The Bureau tried to do this by creating uncertainty and distrust among klansmen and by making the klan know that the government had penetrated its ranks. [10] The FBI has acknowledged that in some instances it exceeded its authority by pursuing these tactics. [11]

In 1965, at the height of the Bureau's intelligence operation against the klan, approximately six percent of the total klan membership were acting as FBI informants. [12]

Gary Thomas Rowe, Jr., was recruited in the Spring of 1960, when Special Agent Barrett Kemp asked him to join the Eastview 13 "Klavern" (local chapter), considered one of the most violent in Alabama. When Birmingham became a major focal point for the civil rights struggle, Rowe soon became an extremely valuable informant in the Bureau network. With a population of 340,000, Birmingham was one of the South's largest cities, and the major industrial center for that region. Public facilities were thoroughly segregated, and most of the city's 140,000 blacks were confined to menial, low-paying jobs. Since few blacks were able to overcome the obstacles of voter registration, they had no political power.

10. Id., 144-45.

11. Id., 143.

12. Id., 144.

In December 1960, the Supreme Court handed down its decision in Boynton v. Virginia [13], ruling that racial segregation in terminals and stations serving interstate bus and rail traffic was unconstitutional. Legal scholars were enthusiastic, but, as a practical matter, there was little voluntary compliance in the South.

The Congress of Racial Equality (CORE), under the leadership of James Farmer, decided to dramatize the continuing practice of segregation by sponsoring interracial "Freedom Rides" on regularly scheduled bus routes through the South. Two of these buses, travelling west from Atlanta, entered Alabama on May 14, 1961. A mob stopped and attacked the first on a highway outside of Anniston, 60 miles east of Birmingham, and left it gutted by a fire bomb. The second made it to the Trailways station in Birmingham, where another mob set upon the riders with chains and lead pipes, sending many to the hospital. On May 19th, a club swinging crowd greeted still another bus in Montgomery and brutalized its riders. [14] Local ambulances refused to carry the injured to the hospital. [15]

Photographs of the flaming bus and the bleeding freedom riders were widely publicized by the national news media, and, for many people, the violence was the first evidence of the impending racial crisis. Featured prominently in the

13. 364 U.S. 454 (1960).

14. Doar Interview by Task Force, supra n. 8 at 52.

15. Guthman, We Band of Brothers, 171 (1971).

news accounts were stories that local civil and police authorities in all three cities had done nothing to prevent the mob violence, despite having known about it in advance. [16]

During the remainder of 1961 and 1962, the focus of national attention shifted to places like Oxford, Mississippi, where James Meredith was enrolled in the University of Mississippi with an escort of hundreds of federal marshals, and to Albany, Georgia, where Dr. Martin Luther King, Jr. was developing confrontation politics on a much larger and more effective scale. Using Gandhian tactics, King and his followers willingly submitted to arrest and abuse, to dramatize both the inequities they suffered and the unwillingness of some whites to submit to change. [17]

A Gallup poll taken on June 16, 1963, on the question of whether Kennedy was "pushing racial integration too fast or not fast enough" showed 36 percent answering "too fast", 18 percent "not fast enough", 32 percent "about right", and 14 percent with no opinion. Thus, there was not yet sufficient support for the civil rights legislation President Kennedy asked for on June 11th, the day Governor George C. Wallace stood in the door at the University of Alabama. On June 27th, the Secretary of the Senate, Robert (Bobby) Baker, reported to Majority Leader Mike Mansfield that "it is virtually impossible to secure 51 Senators who will vote for the President's

16. Life, May 26, 1961. Newsweek, May 29, 1961.

17. King, Why We Can't Wait, 39-65 (1964).

bill." [18] The events which changed this sentiment in Congress were about to take place in Birmingham.

During the winter months of 1962-1963, Dr. King and Rev. Fred Shuttlesworth of Birmingham planned a civil rights campaign for that city based on the tactics developed in Albany. They identified segregated lunch counters and department stores as targets for demonstrations, and raised sums of money for bail. [19] In the spring of 1963, King and Shuttlesworth launched a series of daily marches, sit-ins, pray-ins, and boycotts of downtown stores. The City obtained an injunction in the State court against the demonstrations, which King ignored, resulting in his imprisonment. He used the opportunity to write his famous "Letter from Birmingham Jail", in which he stated that his purpose was "to create a situation so crisis-packed that it will inevitably open the door to negotiations", and justified his tactics with an appeal to "man's moral responsibility to disobey unjust laws". [20]

Soon, the City found itself running out of places to put the demonstrators it had arrested, and the Director of Public Safety, Eugene "Bull" Connor, changed his tactics. On May 3rd, his police stopped arresting demonstrators and concentrated on repulsing them. That day, the nation watched on the evening news films of Bull Connor's police dogs,

18. Note from Bobby Baker to Mike Mansfield, June 27, 1963, JFK Papers.

19. Matthews and Prothro, Negroes and the New Southern Politics, 240 (1966).

20. King, Why We Can't Wait, 73-74 (1964).

fire hoses, and officers unleashed on hymn-singing blacks, many of whom were women and children.[21]

Throughout the highly publicized violence, however, King's coalition was holding secret meetings with a newly-elected city leadership, considered moderate compared to the segregationist City Commission it had replaced. And on May 10th, the negotiators went public and announced an agreement to end the crisis whereby lunch counters and public facilities would be desegregated within ninety days, and regular lines of communication would be established with the black community.[22] Members of the old City Commission, speaking for a substantial portion of the white community, immediately denounced the agreement and branded it a cowardly capitulation to rabble rousers. [23]

The evening after the agreement was announced, the Ku Klux Klan held a rally in a local park. It was followed by a dynamite bomb explosion at the home of Rev. A.D.W. King, the brother of Martin Luther King, and shortly thereafter, another bomb exploded at the A.G. Gaston Motel, which had been a headquarters for the movement. The bombings set off riots in the black neighborhoods, where police cars and firetrucks were stoned.

Concerned that these events would destroy the critically important precedent of a negotiated settlement,

21. New York Times, May 3-8, 1963. Life, May 17, 1963.

22. Brauer, JFK and the Second Reconstruction, 235 (1977).

23. Id.

President Kennedy went on television the next evening to praise the Birmingham agreement as a "tribute to the process of peaceful negotiation and to the good faith of both parties". He warned that the federal government would "not permit it to be sabotaged by a few extremists on either side who think they can defy both the law and the wishes of responsible citizens by inciting or inviting violence". [24]

The President's concern was well founded, for the bombings in Birmingham did not begin nor end with the two that exploded on May 11, 1963. The City had been plagued by racially motivated bombings since the mid-1950's, events so common that a middle-class black neighborhood came to be known as Dynamite Hill. Between 1956 and the end of 1963, there were at least twenty-two bombings of black homes and churches in Birmingham, most of which remain unsolved.

December, 1956 - home of the Rev. F.L. Shuttlesworth

April, 1957 - home of Asbury Howard, black labor leader

April 1957 - Allen Temple, a church

July 1957 - black residence under construction on "Dynamite Hill"

November, 1957 - black residence under construction

December, 1957 - black residence under construction

May, 1958 - home of Mrs. Dora Muldin

June, 1958 - Bethel Baptist Church, where Shuttlesworth was pastor

24. New York Times, May 13, 1963.

July, 1958 - home of William Blackwell
 January, 1962 - New Bethel Baptist Church
 January, 1962 - St. Luke's Zion Church
 January, 1962 - Trinity Church of God
 January, 1962 - Four-unit apartment houses for blacks
 under construction
 December, 1962 - New Bethel Baptist Church
 March, 1963 - home of Howard Robinson
 May, 1963 - home of Rev. A. D. King
 May, 1963 - A. G. Gaston Motel
 August, 1963 - home of Arthur Shores, civil rights
 attorney
 September, 1963 - home of Arthur Shores (second bombing)
 September, 1963 - home of A. G. Gaston
 September, 1963 - 16th Street Baptist Church
 September, 1963 - shrapnel bomb at corner of Center and
 6th Avenue [25]

On April 10, 1964, Director Hoover wrote a personal
 note to President Johnson, assuring him that every effort
 was being made to find the bombers, and advising him that:

It appears a small group of men in the
 Eastview klavern, United Klans of America, Inc.,
 Knights of the Ku Klux Klan, is probably respon-
 sible for the church bombing and other bombings.
 However, it has been impossible to date to
 secure confessions or the evidence necessary for
 prosecutions. [26]

25. Memorandum from BH SAC to SA Charles R. Hennick, Oct.
 9, 1963; BH 157-352-1667.

26. Letter from J. Edgar Hoover to Lyndon B. Johnson, Apr. 10,
 1964, LBJ Library, Austin, Texas.

The Bureau's hopes for solving the bombings were pinned on informants such as Gary Thomas Rowe, Jr., a member of the Eastview klavern.

The fragile agreement reached in Birmingham, was a watershed event in determining whether civil rights issues would be resolved peaceably or degenerate into a race war, and the "small group of men in the Eastview klavern" were threatening to send the whole city up in flames. It is in this context that one must evaluate the Bureau's use of informants, and of Gary Thomas Rowe, Jr.

One perspective on the era may be found in this statement by an agent who was assigned to Birmingham when many of these events occurred:

I'm thinking of the Rev. Shuttlesworth's church on Christmas Eve, blown so that there's nothing left but the peak of the roof, and an angry mob, when Fred crawls out what's left of the rosette window and says, 'Everybody calm down. That one didn't have my name on it.'

I mean those are the incredible things, okay? And our efforts to neutralize a group of folks who were given to that kind of activity was what those four or five years in Birmingham, Alabama were all about. And, we wouldn't have done it without guys like Tommy Rowe.

* * *

You know, there was no thrust anywhere about this -- we weren't exactly stumbling around in the dark, but we had precious little direction to add a federal layer of investigative force to problems that we had never encountered before. Who ever encountered the street demonstration before Little Rock in 1957? None, to my knowledge.

You know, how do you cope with -- nobody ever saw that before -- 2,000 people gathered

together in a common cause and sit down . . . in a major city and block four intersections at one time. . . . And thus crops up Bull Connor, who arrests a couple of hundred kids the same day and has nothing to do with them, so he lines them up in columns of fours and double-times them from downtown Birmingham to the fairgrounds; that's going to be the compound; and they put them all under arrest in the Alabama State Fairgrounds. And then they set up tables and bond them out, and they end up in our files.

I mean, those things happened. Those were the difficult problems. We were all learning, we were all going to school on this stuff as we went. [27]

27. Neil P. Shanahan Interview by Task Force, Feb. 27, 1979, 85, 87.

IV. ROWE BECOMES AN INFORMANT

Gary Thomas Rowe, Jr., was 27 years old and working at a dairy when the FBI first contacted him. [1] The occasion, ironically, was a routine investigation by the Bureau of a report that someone had been in a bar impersonating an FBI agent. It was Rowe. [2]

The time was early April 1960, and Clarence Kelley, now retired Director of the FBI, was the Special Agent in Charge (SAC) of the Birmingham field office. Since the case was relatively minor, he assigned it to a young agent named Barrett Kemp, not six months out of the FBI training academy. [3] Kemp tracked down Rowe and found that the young dairy worker had merely been trying to impress someone sitting next to him at the bar. Kemp "read him the riot act," reminding him that what he had done was a punishable offense, and then took down some background information to assure Rowe that he was serious. [4] Kemp observed:

He was a frustrated, undereducated individual. He never graduated from high school, if I recall properly. From Savannah, Georgia. His parents apparently still lived there at that time. He was married, and had a couple children. And he attempted to get on the Birmingham Police Department. That is what he told me. But he was turned down because he didn't have the education. He said, "I have always been involved in law enforcement, wanted

1. Memorandum from BH SAC to Director, Nov. 5, 1960; HQ 137-6295-2; Task Force 235. See Appendix pp. 6-7 for an explanation of the FBI and Task Force's filing systems and page references.
2. Barrett G. Kemp Interview by Task Force, Mar. 9, 1979, 5.
3. Id.
4. Id., 6.

to get involved in law enforcement. . . . I even ride around town occasionally with some of these officers because we're friends. [5]

In the weeks following this encounter, Special Agent Kemp dropped in on Rowe several times, partly to assure himself that Rowe was not repeating his mistake, but also to see if Rowe's interest in law enforcement was genuine. Although Rowe's views on race were not extreme, Kemp learned from their conversations that some of Rowe's drinking buddies at the VFW Club had approached him several times about joining the klan. At this point, Kemp began to consider the possibility of using Rowe as an informant. [6]

Following Bureau policy, the agent began a thorough background investigation of Rowe. He discovered, among other things, that at age 14, Rowe had enlisted in the Georgia National Guard, perhaps relying on his 5' 11" height and muscular build to cover the extra three years he gave himself on his application. [7] After an honorable discharge in 1950, he enlisted in the U. S. Marine Corps Reserves, serving as an infantryman until 1957. [8] He served both these tours in reserve duty status with only short periods of active duty for training.

5. Id.

6. Id., 6-11. Memorandum from SA Kemp to SAC, Apr. 18, 1960. BH 170-9-1; Task Force 126-27.

7. Memorandum from BH SAC to Director, Nov. 5, 1960; HQ 137-6295-2; Task Force 239-40.

8. Id., 238.

Rowe lived in Savannah from the time of his birth in 1933 until the early 1950's, moving to Birmingham about 1953. The FBI's background investigation turned up little information about his childhood or family. He dropped out of school in the eighth grade, and as a young adult, he held a variety of jobs, including ambulance driving, a job he lost for carrying unauthorized passengers. He had a scrape with the law at age 18, when the Savannah police arrested him for carrying a pistol without a permit. He was later acquitted.[9] In late 1951, he married and was divorced in less than a year. About a year later, he married again. [10] After moving to Birmingham, Rowe worked various jobs including a dairy as a machinist, where he worked through 1964.

Kemp discovered from county court records that Rowe had been arrested at a bar in Birmingham on September 21, 1956, for impersonating a police officer, and fined \$30. When asked about this, Rowe told Kemp that the bar owner who accused him was lying.[11]

Finding nothing in his background check that would disqualify Rowe, Kemp approached him one day about becoming an informant:

9. Id., 236. United States v. Eaton, et al., No. 11736-N, M.D. Ala., Nov. 29- Dec. 3, 1965, 277-78 [Hereinafter Trial 3].

10. Trial 3 at 275-79.

11. BH SAC to Director, supra n. 7 at 237.

I came by in my car; he got out of his car, got in mine. We took off and had a nice long ride, parked out in a residential area and talked. And, I made a pass at him relative to the klan, whether he'd be interested.

He said, "I don't know." He said, "I really don't know." He was sort of negative.

I said, "Well, I'll tell you what. I'd have to get clearance, but I can pay your membership fees and if you need a robe, I could probably defer that expense--defray that expense, and you will not have to be out of pocket, but we might need some information. You think about it."

"Hey, I just don't think I want to get involved in that." And, that was his first reaction.

I think probably it was a few days later that he called the office and told me he wanted to see me. And I went out and met him, and, "Yes, I'll do it." At that particular point--this is when we opened an informant file, I guess, and got clearance from the boss to do it, to try him out to see whether it was going to help. [12]

The field office opened his informant file on April 18, 1960. [13] A few weeks later, Rowe contacted his friend at the VFW Club, and after waiting for a background check by the "Klan Bureau of Investigation", was formally initiated into the Eastview 13 Klavern of the Alabama Knights, Knights of the Ku Klux Klan, Inc. on June 23, 1960. [14]

12. Kemp Interview by Task Force, supra n.2 at 10-11.

13. Memorandum from SA Kemp to BH SAC, Apr. 18, 1960; BH 170-9-1; Task Force 126.

14. Report of Rowe to SA Kemp, June 24, 1960; BH 170-9-11; Task Force 130-132.

Birmingham Special Agent in Charge (SAC) Clarence Kelley and Headquarters officials were made aware of Rowe's two attempts at impersonating a law officer [15], but the files do not indicate whether it concerned them. It would appear that this information should have been considered in order to assess Rowe's stability and reliability.

The field offices had been admonished by Headquarters about this very problem not five months before:

RACIAL INFORMANT PROGRAM - In one of our Southern offices recently, a discontinued potential informant on Klan matters misrepresented himself as a former FBI agent while testifying in a child custody hearing. Although he had operated as a potential informant for only a few months and had been discontinued for some time, this situation again points up the need for thorough, intensive background investigation and careful personal scrutiny of such individuals. Your attention is again directed to the need of preventing the development of an individual as a potential racial informant who may possess some weakness as to stability and reliability. [16]

Nonetheless, the Bureau did not hastily rush into making Rowe an informant. From May until November 16, 1960, when the field office completed his background check, [17] Birmingham was authorized only to accept information Rowe

15. SA Kemp to BH SAC, supra n. 12; Task Force 126. Memorandum from BH SAC to Director, July 25, 1960; BH 170-9-17; Task Force 5375.
16. SAC Letter No. 59-71; Nov. 24, 1959; BH 137-00-157; Task Force 109.
17. Memorandum from Director to BH SAC, Nov. 16, 1960; BH 170-9-67; Task Force 221.

provided voluntarily, but not to direct or control his activities before there was sufficient basis for judging his reliability. [18]

Rowe began playing the role of a conscientious klansman, arriving each Thursday night at the klavern's second story hall above Morgan's Furniture Store in Northeast Birmingham. [19] After each meeting, he wrote a report of his observations using the code name, Karl Cross, [20] and mailed it to a blind post office box assigned to him by Agent Kemp.

Rowe's early reports reflect the number of persons in attendance, and the bombast in which the klansmen warmed themselves each week, but very little in the way of planned or prior violence. Later, Rowe learned that the hard business of the klan was plotted in small sessions, closed to the general membership, by only a handful of trusted Klansmen. [21] As described in Rowe's weekly reports, the open meetings do, however, reveal the state of mind which ultimately produced the Birmingham bombings of the 1960's. Typical is this report of a meeting on July 14, 1960, reproduced here with Rowe's own emphasis:

18. Memorandum from Director to BH SAC, Aug. 8, 1960; BH 170-9-23; Task Force 144.

19. Memorandum from BH SAC to Director, Nov. 5, 1960; HQ 137-6295-2; Task Force 235.

20. Memorandum from SA Kemp to BH SAC, June 22, 1960; BH 170-9-7; Task Force 129.

21. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. I at 47-49.

Hubert stated that the [Klan Bureau of Investigation] in Montgomery has concrete proof that Senator John Kennedy is a member of the NAACP and has been a card carrying member since sometime in 1953. He was given his membership by Mrs. Franklin Roosevelt's son. They were all at a dinner given for Sen. Kennedy. Klansman Donaldson got up, and said that there was two good ways to stop the damn communist. That was to get someone to fill his face full of acid or to use one of the guns that they had dry rotting to shoot him with. There was a very loud applause for him. [22]

ROWE ADVANCES IN THE KLAN

On August 18, 1960, the klavern held an election to fill the vacant post of Night-Hawk In-Chief, a time-consuming job that no one wanted. [23] Two klansmen had already declined nomination before a friend put Tommy Rowe's name into consideration, and when Rowe told them he was willing to take it, he was elected by acclamation. [24]

It was an important turn of events, because the Night-Hawk was responsible for investigating all new applicants to the klavern, and as an officer, he was included in its inner circle. [25] Later that evening, Rowe put the news into his report to Kemp, concluding with the wry admonition, "I suggest that you watch this fellow, Tommy, because he is in complete charge of security for the klavern." [26]

22. Report of Rowe to SA Kemp, July 14, 1960; BH 170-9-16; Task Force 133.

23. Report of Rowe to SA Kemp, Aug. 18, 1960; BH 170-9-35; Task Force 149.

24. Id.

25. Id.

26. Id., 151.

In his new position, Rowe was able to furnish the Bureau with intelligence of a quality unequaled by any other source in Eastview 13, or apparently, in the Birmingham area. The new Special Agent in Charge, Thomas Jenkins, sent a progress report to the Director on February 18, 1961, outlining the important information Rowe had supplied in his first three months:

On November 24, 1960, informant advised the intentions of THE ALABAMA KNIGHTS, KKKK, INC. to make a trip to Montgomery, Alabama, for the purpose of possibly stopping the playing of a football game at the Cramton Bowl, which game is an annual event between two Negro colleges in Alabama.

* * *

On December 23, 1960, . . . informant advised of the arrest of several colored college students at the Greyhound Bus Station, Birmingham, by the Birmingham Police Department on December 11, 1960.

On January 3, 1961, informant furnished the membership list for Eastview Klavern 13 and indicated the members that were in regular attendance at Eastview Klavern.

On January 18, 1961, informant advised that ROBERT THOMAS, Exalted Cyclops of Eastview Klavern 13, had read the financial report at a special meeting called on January 16, 1961. It was indicated that \$4,811.00 had been spent by Eastview klavern during the calendar year 1960; that the treasury had \$700.00 remaining after all expenses were paid.

By written report, on February 1, 1961, informant furnished the names of the newly elected State officers and the men in attendance at the State meeting held at Eastview Klavern 13, on January 28, 1961, at Birmingham.

On February 1, 1961, informant orally advised that ROBERT SHELTON, Imperial Wizard

of THE ALABAMA KNIGHTS, KKKK, INC., was establishing a system of degrees for klansmen. The names of all the degrees are not presently known, but Second Degree Klansmen will be known as "Knights of the Great Forest". Certain functions and duties will be required of all members attempting to obtain a higher degree within each local klavern.

Informant has furnished information on approximately 55 members of Eastview Klavern 13, THE ALABAMA KNIGHTS, KKKK, INC., including all the officers of that Klavern. In addition, he has furnished information regarding ROBERT SHELTON, Imperial Wizard of THE ALABAMA KNIGHTS, KKKK, INC., and information regarding officers and members of other Klaverns in the Birmingham area.

Since his election to the office of Investigator for Eastview Klavern 13, he has furnished the names of applicants and all new members coming into that klavern. [27]

The Bureau paid Rowe \$155 for this information, and \$57.66 for his related expenses. [28]

Rowe's development as an informant coincided with a decision by the FBI's leadership to increase coverage of the newly resurgent klan. In a memorandum to all FBI field offices in the South on January 5, 1961, the Director noted that, with the increased number of school desegregation lawsuits, "it may be expected that the membership and activities of klan and related organizations in these areas will increase during the next year," and he directed those offices "to remain constantly alert to indications of a widening of the activities or membership of such groups." He emphasized

27. Memorandum from BH SAC to Director, Feb. 18, 1961; HQ 137-6295-5, Task Force 305-08.

28. Id., 307.

that, "[l]ive informant coverage is, of course, the best way to obtain information of this type and it is imperative that you have sufficient informants for this purpose." [29]

On February 20, 1961, Special Agent in Charge Thomas Jenkins circulated a memorandum to all Birmingham agents, stating:

The handling of Racial Informants in this office is of paramount importance. I have called to your attention previously the absolute necessity of improving our informant coverage in this field. Every effort must be expended to increase this coverage. [30]

GUIDANCE AND CONTROL OF ROWE

Following FBI instructions regarding potential informants, [31] Kemp warned Rowe frequently that his cooperation with the Bureau was voluntary and confidential, and that he could in no way consider himself to be an FBI employee. Kemp further explained that the Bureau was willing to buy information from him on a COD basis, but he should not assume that the Bureau was paying him a salary. [32]

Nevertheless, Rowe somehow developed a more romantic conception of his own role, which he described in a Task Force interview:

29. Memorandum from Director to BH SAC, Jan. 5, 1961; BH 137-00-166; Task Force 275.
30. Memorandum from SAC Thomas Jenkins to All Agents, Feb. 20, 1961; BH 137-00-168; Task Force 310.
31. Memorandum from Director to BH SAC, Nov. 16, 1960; BH 170-9-67; Task Force 221. See Appendix for an explanation of the distinction between potential and full informants.
32. Memorandum from SA Kemp to BH SAC, Apr. 18, 1960; BH 170-9-1; Task Force 127.

Question: At first, did you consider yourself an employee of the FBI?

Mr. Rowe: Not per se, you know, as carrying a commission. I knew what my position was.

Question: What was your position?

Mr. Rowe: To quote him, 'an undercover agent'.

Question: To quote who?

Mr. Rowe: To quote Kemp.

Question: And did the FBI issue you any kind of identification papers?

Mr. Rowe: No, no.

Question: So you just considered yourself an undercover agent for the FBI?

Mr. Rowe: That's correct. The difference being was this, okay? The difference being, then, the word "informant" was a bad word to me, apparently a bad word to them. An informant is a man that picks up the telephone at 3:00 in the morning and calls you and says, 'Hey, I got some information for you. For \$100, \$25, you can have it.' That's an informant, to me. . . .

Question: So you prefer to be called an undercover agent.

Mr. Rowe: I prefer to be what I was. I was given an assignment, and told to go infiltrate an organization. That's what I was told to do.

Question: So, Mr. Rowe, you considered yourself an undercover agent for the FBI?

Mr. Rowe: Absolutely. [33]

Thus, there seems to have been some confusion between Rowe and Kemp on this question. Nineteen years later, it is

33. Rowe Interview by Task Force, supra n. 20, Vol I at 27-28.

impossible to determine everything which may or may not have been said between an agent and his informant in the front seat of a car on a summer's evening. Nevertheless, both understood that in order to be an effective informant, Rowe had to give the impression that he was a dedicated klansman. [34] This inevitably meant, in Rowe's view, that he could not report on klan violence without participating, at least to some extent, in its planning and execution. This is the conundrum which faced every informant, including Rowe, who wished to penetrate the inner circles of the klan in the 1960's.

Kemp insists that he warned Rowe repeatedly not to get involved in any violence whatsoever, and told him that the Bureau, if he did get involved, would disown him and treat him like an ordinary criminal.[35] He says he can remember only two occasions when Rowe admitted he was violent: harassing an interracial couple while night riding with klansmen, and attacking a newsman at the Trailways bus station in May 1961. [36] Rowe insists, however, that he took part in many more beatings during this period, particularly of those who tried to integrate the local buses and downtown department stores, and that he reported this activity to Kemp, usually in writing. [37]

34. Kemp Interview by Task Force, supra n. 2 at 23. Rowe Interview by Task Force, supra n. 20, Vol. I at 55-56.

35. Kemp Interview by Task Force, supra n. 2 at 21.

36. Id., 23, 59-60.

37. Rowe Interview by Task Force, supra n. 20, Vol. I at 77-79, 87-89. Rowe, My Undercover Years with the Ku Klux Klan, 29 (1976).

The true extent of Rowe's involvement in violence is unclear, as is the question of how much he was reporting to Kemp. The Task Force does have evidence that Rowe beat up freedom riders at the Trailways station on May 14, 1961, and we shall examine this incident below. But before Trailways, FBI files indicate Rowe reported he was involved in violence on only one other occasion. There is no indication that any of Rowe's reports from this period are missing.

The one reported episode occurred on April 6, 1961. Rowe reported that a klansman called him out of a regular Eastview 13 meeting one night and asked him to move some heavy equipment. [38] He walked outside and was told to join about thirteen other klansmen on a trip to a farmhouse in Odenville, Alabama. They had just learned that a white couple by the name of Forman was raising a black child; they planned to do something about it. When Mr. Forman, then 69, came to the door, two klansmen tried to throw a sheet over his head, Rowe reported, but were unable to grab him even though he was very short, about five feet four inches. [39] His

38. Report of Rowe to SA Kemp, Apr. 10, 1961; BH 157-71-6; Task Force 343.

39. Memorandum from BH SAC to Director, Apr. 8, 1961; BH 157-71-5; Task Force 339. My Undercover Years, supra n. 37 at 58.

elderly wife rushed to the doorway waving a German luger and ordered the klansmen to let go of her husband. A young klansman pulled his .22, and the 66 year old Mrs. Forman, fearing for her family, fired. Some of the klansmen returned fire, and then scattered into the woods. [40] One fell into a ravine, injuring his kneecap, and several others stumbled through the woods and emerged bruised and scratched, but none of Mrs. Forman's shots hit anyone. [41]

The Bureau interviewed the Formans, and their story confirmed Rowe's report. [42] But nothing in the file indicates he took part in the attempted assault other than driving out to the house with the other klansmen. In our February 21st interview, however, Rowe said he was the one who tried to throw the sheet over Mr. Forman's head. [43]

The next day the Birmingham SAC did inform Headquarters of the incident as Rowe had reported it, [44] and again on April 11, 1961, reported that:

[Rowe] has been advised in the past and again on April 10th to attempt to avoid any incident involving violence, and that if he is involved, he does so at his own risk. He stated he was present at the incident on April 6, 1961, and that there was no chance to avoid attending the incident since he was told at the meeting

40. Rowe to SA Kemp, supra n. 38.

41. Id., 345.

42. BH SAC to Director, supra n. 39 at 339-41.

43. Rowe Interview by Task Force, supra n. 20, Vol. II at 227.

44. Teletype from BH SAC to Director, Apr. 7, 1961; BH 157-71-1; Task Force 332.

that evening that he was to help move some heavy equipment later on in the evening. He was not aware of what was actually to take place. [45]

The Birmingham office also informed the St. Clair County Sheriff's office of the Forman incident, without exposing Rowe, of course. [46]

It is difficult to evaluate Rowe's claim that he told the Bureau about his beating up blacks and civil rights activists in city buses and downtown department stores. [47] When Rowe first reported on the city bus situation, he maintained he was effective in preventing violence. At a klavern meeting on August 3, 1961, a klansman named King, who happened to be the father of a bus driver, took the floor and urged the other klansmen to help throw the blacks off the buses. Rowe reportedly told the klansmen that they would get arrested and lose their jobs if they tried this, and that the bus drivers should handle their own problems. Rowe described what happened next:

So then KING got back up and stated that he had be [sic] in the KLAN for over ten years, and he felt like the law was wrong and he pleaded for the men to take the law in there [sic] own hands and put a stop to the bus situation once and for all. So ROWE got back up and said that he was not going to take the law in his hands; that we had a good judge at City Hall to handle such cases, and then if that failed and everything else failed they might see about it, but he felt like KING only came to the meeting because his son was involved, that he had only

45. Airtel from BH SAC to Director, Apr. 11, 1961; BH 157-71-7; Task Force 346-47.

46. Id., 347.

47. Rowe Interview by Task Force, supra, n. 37, Vol. I at 77-79, 87-89. My Undercover Years, supra n. 37 at 29.

seen KING two or three times before. So then some of the other Klansmen stated that ROWE had a pertty [sic] good reason for not wanting to handle the case, and they were not either. [48]

On August 30, 1960, Rowe told Kemp that the klan wanted him to buy a two foot long baseball bat and to deliver it to another klansman for modification. At a klavern meeting one week later, the bat was returned to Rowe, loaded with four to five ounces of lead, and plugged and varnished at the end. He saw about one hundred similar bats stored in a box at the klavern hall. [49] There the Grand Titan, regional leader for Northern Alabama, Hubert Page, told the klansmen that he did not think the law was doing enough about blacks riding on buses and sitting down at lunch counters. Page said the klan would "strike down at the niggers" to make them think twice before sitting in the front of buses. [50] As Page described it, klan leadership planned to mobilize several hundred klansmen from all over Birmingham to ride the city buses on a particular day and to attack any black sitting out of place, using the leaded bats, bicycle chains, and blackjacks. [51] Page called the operation "Wholesale Day" and promised that klansmen would be notified a day in advance. [52]

48. Report of Rowe to SA Byron McFall, Aug. 3, 1961; BH 170-9-SF-74; Task Force 825-28.

49. Report of Rowe to SA Kemp, Aug. 30, 1960; BH 170-9-39; Task Force 163-64.

50. Report of Rowe to SA Kemp, Aug. 25, 1960; BH 170-9-38; Task Force 158-59.

51. Id., 159.

52. Id.

There is no evidence in FBI files that the klan ever carried out the "Wholesale Day" plan. A different informant from the Bessemer klavern reported hearing the plan discussed at a September 16th meeting. They were not to act until "the way was clear" [53]; however, an October 22nd FBI report showed klan leaders had still not scheduled Wholesale Day as of that date. [54] This is the last reference to the operation in FBI files. When Rowe first reported the plan to his handling agent on August 25th, Birmingham passed it on to Headquarters and local military intelligence offices according to routine procedure. [55] Had Rowe informed the Bureau in advance of a planned date, it seems likely that the Bureau would likewise have passed it on and made a record of it.

Rowe did advise the FBI that the klan planned to move violently against department store pickets in a December 15, 1960 report:

They are still looking for a big picket group before Christmas at the larger stores in Birmingham, Montgomery, Anniston, Mobile, and Tuscaloosa, Alabama. All klansmen will crush any attempt to picket any store. The squad leaders will be notified of any attempts at once. [56]

- 53. Report of Informant to SA McFall, Sept. 17, 1960; BH 105-655-23; Task Force 178.
- 54. Report of SA C.B. Stanberry, Oct. 22, 1960; BH 137-31; Task Force 212.
- 55. Memorandum from BH SAC to Director, Sept. 16, 1960; HQ 157-227-10; Task Force 170.
- 56. Report of Rowe to SA Kemp, Dec. 15, 1960; BH 170-9-SF-6; Task Force 271.

But there is nothing in his written report to suggest that he would be involved, that the plan was ever carried out, or that he later took part in any violence against department store demonstrators. There is no other mention of this plan in the FBI files.

Of course, it is possible that Rowe informed Kemp orally about the beatings, and Kemp neglected to put the information in FBI files. This seems to have happened in the Trailways bus station incident, which we will examine next.

V. INCIDENT AT THE TRAILWAYS BUS STATION
MAY 14, 1961

The attack on the Freedom Riders at the Trailways bus station in Birmingham on May 14, 1961, is a critical event in Rowe's career as an FBI informant, because the evidence obtained by the Task Force shows that of the hundreds gathered for the CORE bus arrival, Rowe was one of the handful most responsible for the violence at the bus station. The evidence available to Special Agent Kemp within hours of the incident was such that it would have been difficult for him not to have known the full extent of Rowe's involvement. However, there is nothing in FBI files which indicates he brought this information to the attention of Birmingham's Special Agent in Charge or Headquarters.

The incident illustrates the rewards and the dangers of having an aggressive informant like Rowe. Only a month before, he had uncovered a link between the klan and the Birmingham Police Department. On April 17, 1961, Rowe told Kemp that he had been talking to Robert Shelton, Imperial Wizard of the Alabama Knights of the Ku Klux Klan, and that Shelton had told him to contact a Sergeant Tom Cook of the Birmingham Police Department to pick up some information Cook had.^[1] By coincidence, the same day Sergeant Cook called Special Agent C. B. Stanberry, who handled klan matters for the Bureau, and inquired if Stanberry knew one Tommy Lowe [sic], a member of the klan. When Stanberry said

1. Memorandum from BH SAC to Director, Apr. 19, 1961; BH 170-9-93; Task Force 353.

no, Cook said he intended to talk to Lowe, but would not do so if he was "one of your boys." [2]

Later that day, Rowe met with Cook at a Birmingham restaurant. [3] Cook told Rowe that the Imperial Wizard had assured him that "Rowe was 100%," and that Cook wanted to use Rowe as a contact to pass information to the klan. At that meeting, he furnished Rowe with the names of several interracial integrationist groups as well as the places where they were meeting and the identities of the persons attending. [4] He also warned Rowe that he believed the FBI definitely had an informant in Eastview 13 because the Bureau had recently tipped off the Birmingham Police that the klavern was planning violence at a local Unitarian church. [5] Cook promised that if the klan could identify the informant, "a jury could be fixed to have the individual sent to the penitentiary." [6]

The Birmingham FBI office knew Sergeant Cook was then in charge of "racial matters" for the Birmingham Police Department and a close associate of Public Safety Commissioner Eugene "Bull" Connor. At the time, Connor was running for re-election, and the Birmingham SAC speculated that:

2. Id., 354.

3. Id.

4. Id., 354-55.

5. Id., 354

6. Report of Rowe to SA Barrett Kemp, Apr. 24, 1961; BH 170-9-SF-42; Task Force 361.

It is possible that Commissioner CONNOR is using COOK to help him line up votes from klan members by feeding them information which comes to his attention, not only through their own informants, but also information received from this office, in order to ingratiate himself with members of the klan. This is particularly significant since it is known by Agents of this office that COOK takes most of his orders directly from CONNOR and not from Chief [of Police, Jamie] MOORE.[7]

SAC Thomas Jenkins reassured Headquarters that Rowe was still completely loyal to the FBI and that:

All agents have been cautioned concerning this possible connection between the Birmingham Police Department and the klan. They were instructed to immediately advise of any information coming to their attention regarding this matter.

In view of the above information, this office will continue to be most circumspect in any information disseminated to the Birmingham Police in order not to divulge the identity of any of our informants.[8]

Word of impending violence against the Freedom Riders came in on May 4 and 5, 1961, when three different Birmingham informants reported to the FBI that the Grand Titan, Hubert Page, had been making the rounds at klavern meetings with the news that the Congress of Racial Equality (CORE) was planning to test desegregation on interstate buses in Alabama and that Robert Shelton wanted all klansmen to stand by to stop them if the police did not.[9] Page had obtained his information about the CORE plans, Rowe was able to learn, from Sergeant Tom Cook. [10] On May 12, the SAC

7. BH SAC to Director, supra n. 1, 353, 355.

8. Id., 356.

9. Airtel from BH SAC to Director, May 5, 1961; BH 157-48-12; Task Force 369-70.

10. Id.

cautiously advised Police Chief Jamie Moore of Shelton's threat.[11]

There were other signs that the klan was planning to take action at the bus stations. Rowe reported that an angry discussion broke out at a December 15, 1960, meeting of Eastview 13 when klansmen learned that nothing had been done about a sit-in at Birmingham's Greyhound station.[12] Klan officers apologized and promised to prepare plans for future sit-ins.[13] Writing in the third person under the pseudonym Karl Cross, Rowe mentioned something else in that report which, with the benefit of hindsight, becomes important:

They also said that they want all group captains to get together for more training in the manner to handle such attempts. We also heard that they told klansmen BILLY JACKSON and TOMMY ROWE one day this week to start Judo classes on all the lethal chops and holds that they know, and a select group of men will receive this training.[14]

On May 12, 1961, Rowe alerted the Bureau that Hubert Page, the Grand Titan, had visited Eastview 13 the night before and announced he had just learned that the CORE "Freedom Riders" would arrive in Birmingham on Sunday, May 14, and

11. Teletype from BH SAC to Director, May 10, 1961; BH 157-48-16; Task Force 379.

12. Report of Rowe to SA Kemp, Dec. 15, 1960; BH 105-653-88; Task Force 273-74.

13. Id., 274.

14. Id.

that the klan leadership was preparing plans to attack the passengers when they arrived.[15] After the meeting, Page told Rowe that he learned the date of their arrival from Shelton, who got it from Sergeant Tom Cook. Page said that Bull Connor had promised that, when trouble broke out, Connor would see that fifteen to twenty minutes would elapse before sending in the police. If blacks attempted to enter the depot restaurant, Connor reportedly advised the klansmen to start a fight and blame it on the blacks; and if they attempted to enter the restrooms, to beat them up until it "looked like a bulldog got a hold of them," remove their clothes, allowing the police to arrest them as they emerged naked. Connor advised the klan leadership not to worry if any klansmen were arrested. He would see that the blacks would be found at fault and would insure that any sentences, if meted out to klansmen, would be light.[16]

Rowe was unable to determine whether Connor had spoken directly to Page or through Shelton.[17] The primary documentary evidence of Bull Connor's "fifteen minutes" statement, is the teletype summarizing Rowe's report which the SAC immediately dispatched to Headquarters.[18] It should be remembered that, like many informant reports, it contains hearsay upon hearsay.

15. Teletype from BH SAC to Director, May 12, 1961; BH 157-48-27; Task Force 387.

16. Id., 387-88.

17. Id.

18. Id., 387.

In this same report, Rowe outlined the klan's plan of attack. Sixty select klansmen were ordered to be present at the scene -- thirty at the depot and thirty more in reserve at the Moulton Hotel nearby, to be deployed once the action started. Five klan officers, including Rowe, were assigned to stand inside the depot to spot CORE leaders as they arrived. The five were not to participate in the planned beatings, but were to follow the CORE leaders to their hotel or motel and attack them later. Each klansman was assigned to a squad leader, one of whom was Rowe, and instructed to bring his leaded baseball bat.[19]

All of these facts, including Rowe's proposed role, were teletyped immediately to Headquarters on May 12.[20] At 6:25 p.m. on the same day, Headquarters Supervisor Clement McGowan telephoned Birmingham Assistant Special Agent in charge, Kenneth Raby, and directed him to alert Police Chief Moore that "several groups" were interested in the CORE buses' arrival, and that there "could be some violence." The exact language was important because of the danger of exposing the source of the information.[21]

The following morning, Saturday, May 13, SAC Jenkins located Chief Moore and gave him the warning.[22] Moore

19. Id., 389-90.

20. BH SAC to Director, supra n. 15 at 387.

21. Memorandum from BH ASAC to BH SAC, May 13, 1961; BH 157-48-29; Task Force 391.

22. Id.

replied that he had made plans to attend a family memorial service and would be out of town on the 14th.[23]

Saturday afternoon, the Atlanta FBI office teletyped Headquarters, Birmingham and Mobile to advise that two CORE groups had arrived in Atlanta on separate buses and had used the station facilities there without incident. The buses were scheduled to depart for Birmingham at 8:40 a.m. and 11:00 a.m. the morning of the 14th.[24] For the third time, SAC Jenkins picked up the telephone and advised Chief Moore that the buses, and the violence, were coming.[25]

The Bureau conducted a massive investigation in the months that followed to establish what actually happened at the Trailways bus station that Sunday, and it is puzzling, in light of what they knew of the incident in advance, that the FBI did not place agents at the scene to observe the incident first hand. Nothing in FBI files indicates whether that was even considered. Of course, the Bureau no doubt assumed that primary responsibility for maintaining law and order lay with the Birmingham Police Department. However, both Headquarters and Birmingham did have reason to suspect a police-klan collusion to interfere with the rights of interstate travellers, and in hindsight, it is indeed unfortunate that the Bureau did not take additional action to prevent the

23. Memorandum from Alex Rosen to Parsons, May 15, 1961; HQ 100-725892-309.

24. Teletype from AT SAC to Director, BH SAC and MO SAC, May 13, 1961; BH 157-48-33; Task Force 395.

25. Id.

violence, such as notifying the Attorney General and the United States Marshals Service, who might have been able to do something. The Bureau did conduct an exhaustive investigation after the incident, except perhaps as to Rowe's involvement. [26]

Numerous witnesses were interviewed, and virtually all agreed on the basic facts. The first CORE bus left Atlanta as scheduled and travelled westward along U.S. 78 to Anniston, Alabama, sixty miles east of Birmingham, where a mob of Calhoun County klansmen forced it off the road and threw a fire bomb inside, destroying the entire bus. Somehow, the passengers managed to escape without serious injury. [27] Rowe was not involved in this incident.

The second bus, trailing by two hours, arrived at the Trailways station in downtown Birmingham at about 4:15 p.m. [28] The CORE group disembarked amidst a crowd of regular passengers and walked from the platform at the rear of the station through a corridor toward the "white only" waiting room. [29] A mass of klansmen stood in their way.

26. HQ 149-1684 all serials.

27. Teletype from BH SAC to Director, May 15, 1961; BH 157-48-42; Task Force 412.

28. Report of ASAC K. N. Raby, May 26, 1961; HQ 149-1684-84; Task Force 462.

29. Id.; Memorandum from SA Kemp to BH SAC, May 15, 1961; BH 170-9-SF-48; Task Force 398.

Someone yelled, "Get that SOB," and a brawl broke out. [30] Men swinging bats and chains jumped two CORE leaders, James Peck and Charles Person, and beat them to the floor. None of the witnesses can remember exactly what happened next in the crowded corridor, but within seconds, newsmen and innocent bystanders, white and black, were attacked indiscriminately. L. B. Earle, a local white completely unaware of the CORE expedition, had just emerged from the restroom when the mob caught him and put seven deep gashes in his head. When it was over, nine persons were sent to the hospital, only two of whom were CORE freedom riders. [31]

One of the injured blacks was George Webb, who had come to the station to pick up his fiance, a passenger on the bus, [32] but not part of the CORE group. He was standing near the rear door of the corridor when four men grabbed him and started to beat him with fists and clubs. Webb doubled over to protect himself about the time a photographer from the Birmingham Post-Herald, Tom Langston, pushed open the station's rear door and triggered the shutter on his camera. [33] The following day, the Post-Herald carried the photograph across five columns of the front page. [34]

30. ASAC Raby Report, supra n. 28 at 462. SA Kemp to BH SAC, supra n. 29 at 399.

31. Birmingham News, May 15, 1961; BH 149-16-SF1-3; Task Force 414.

32. ASAC Raby Report, supra n. 28 at 652.

33. Id., 632-33.

34. The text incorrectly identifies the victim as James Peck.

The Bureau obtained a copy of the photograph [35] and used it extensively in their investigation.[36] Numbers were pasted on each of the persons appearing in the photograph, and on the reverse side there is a list naming those who could be identified and the witness who made the identification.

In the photograph, a large man, number 18, stands with his back to the camera, holding on to the victim. When interviewed by the Task Force, both Kemp and Rowe identified number 18 as Rowe.[37] However, on the picture's reverse side, the corresponding slot for number 18 is blank. Numbers 1, 8, and 24 are identified, and the person making identification is shown to be BH-248, Rowe's code number, which indicates an agent must have shown him the picture. Kemp says he cannot presently recall whether he discussed this photograph with Rowe in 1961, although his memoranda from that time indicate that he did.[38] George Webb identified himself to the Bureau as the victim in the photograph.[39]

35. Id.

36. ASAC Raby Report, supra n 28 at 644; the photograph is attributed to the Birmingham News but the description of the photograph indicates it is the Post-Herald photo.

37. Barrett Kemp Interview by Task Force, Mar. 9, 1979, p. 57. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. II, pp. 106-07.

38. Memorandum from SA Kemp to BH SAC, May 15, 1961; BH 170-9-SF-48; Task Force 402. Kemp Interview by Task Force, supra n. 37 at 62.

39. ASAC Raby Report, supra n. 28 at 652.

In addition to the photograph, there was sufficient evidence from witnesses' statements to reconstruct with some precision the extent of Rowe's violence that day. The photographer, Tom Langston, stated that his camera flash caused the men who were beating up Webb to drop their victim and chase Langston out the building and onto a platform where they smashed his camera and beat him unconscious.[40] Julian "Bud" Gordon, a reporter for the Birmingham News, was standing in the parking lot at the rear of the depot and saw them pummeling the photographer. He told the Bureau that the men who got Langston were the same ones who were shown doing the beating in the newspaper picture.[41] Gordon took three pictures of the Langston beating before the attackers spotted him, rushed over, and demanded his film. Gordon told the Bureau that "the big fellow" who was bending over the victim in the newspaper picture was the one who took his camera, but later restrained the pipe-wielding man from hitting Gordon.[42] The agent who conducted Gordon's interview said he had no idea whom Gordon was referring to when he mentioned the "big fellow." [43]

Meanwhile, Clancy Lake, News Director for Station WAPI, arrived on the scene in a mobile broadcasting unit. He left

40. Id., 632, 653.

41. Id., 613.

42. Id.

43. Roy M. Osborn Interview by Task Force, Feb. 7, 1979, 9-11.

his car and ran to the rear of the station where he saw several fights in progress, and in particular, a heavy-set white man with a yellow polo shirt stomping on a black man.[44] Lake ran back to his mobile unit and began a live broadcast of the action. Minutes later, the heavy-set, yellow-shirted man and two others approached his car. They smashed his car window, jerked the microphone off the dash, and threw Lake on to the pavement.[45] Then they threw him up against a wall and took two swings at him with a blackjack, which missed. Then, Lake watched them as they walked casually up the street toward the police station.[46] Several days later, Rowe admitted he smashed Clancy Lake's window.[47]

At 7:15 p.m., on May 14, Kemp telephoned Rowe's house to find out what had happened. Rowe's wife told Kemp that he had returned home briefly at 5:00 p.m. and left again in the company of three other men. [48] At 12:15 a.m., May 15, Rowe returned Kemp's call and told him that he had just returned from Pinson, Alabama, where a "klan" doctor had put

44. ASAC Raby Report, supra n. 28 at 615.

45. Id., 615-16.

46. Birmingham News, May 15, 1961; BH 149-16-SF1-7; Task Force 415.

47. Memorandum from SA Kemp to BH SAC, May 17, 1961; BH 149-16-62; Task Force 433.

48. Memorandum from SA Kemp to BH SAC, May 15, 1961; BH 170-9-SF-48; Task Force 398.

eight stitches in his neck to close a knife wound.[49] In his memorandum to the SAC reporting this conversation, Kemp reports that Rowe told him he was present at the Trailways station and observed "many persons" fighting and others taking cameras from newsmen, including Clancy Lake. There is no mention in the memorandum that Rowe himself took part in the violence. [50]

In the same memorandum, Kemp states that Rowe told him that he had gone with a group of klansmen to the Greyhound depot about 6:00 p.m. on May 14 in hopes of catching another CORE bus, and that his throat got cut when a fight broke out with some local blacks taking license numbers.[51] There are no further details of Rowe's involvement in that fight. Finally, Kemp reported that on the morning of May 15, 1961, he called Rowe about the photograph on the front page of the Birmingham Post-Herald, and Rowe identified three klansmen. Again, there was no mention that Rowe was in the picture.[52]

On May 16, 1961, SAC Thomas Jenkins sent an urgent teletype to Washington, describing the events of May 14, and reporting on the progress of the investigation.[53] The teletype indicated that the Post-Herald photograph had

49. Id.

50. Id., 399.

51. Id., 400.

52. Id., 402.

53. Teletype from BH SAC to Director, May 16, 1961; BH 149-16-30; Task Force 419.

already been sent to Washington. The teletype summarized the information Rowe supplied and reassured Headquarters that Rowe "advised he was not personally involved in the fighting at the Trailways bus depot." Rowe "obtained film from photographers' cameras peacefully and without incident," the message reported, and was "involved in the incident with Lake but denie[d] any blows struck against Lake." [54]

The following day, May 17, Kemp reported another conversation he had with Rowe about the photograph. According to Kemp, Rowe learned through klan contacts that the man swinging the club was not a klansman, but a member of the National States Rights Party, a militant segregationist organization. Kemp reported additional speculation about the identities of other individuals, but again, failed to mention that Rowe was in the picture. [55] The Task Force was unable to determine anyone in the Birmingham field office other than Kemp who knew what Rowe looked like.

On the same day, Kemp wrote a lengthy and detailed account of Rowe's involvement in Trailways. It begins with an explanation:

HUBERT PAGE, Grand Titan for THE ALABAMA KNIGHTS, KNIGHTS OF THE KU KLUX KLAN, INCORPORATED, had specifically instructed BH 248-PCI (RAC) that he was to be present with PAGE at all times on May 14, 1961, so

54. Id., 421.

55. Memorandum from SA Kemp to BH SAC, May 17, 1961; BH 149-16-53; Task Force 431-32.

that BH 248-PCI (RAC) could maintain contact between TOM COOK, Birmingham Police Department, and ROBERT SHELTON, Imperial Wizard of THE ALABAMA KNIGHTS, KNIGHTS OF THE KU KLUX KLAN, INCORPORATED. BH 248-PCI (RAC) stated that he was aware that he had been advised in the past not to attend any scenes of violence, but that this particular incident he was ordered to be present and no excuse would be accepted by PAGE. [56]

Kemp reported that Rowe believed, to the best of his knowledge, that the klan did not take part at the Trailways Bus Station, but that Dr. Edward Fields and members of his National States Rights Party were responsible for the fighting. Rowe admitted that he and a group of klansmen "secured the film from the photographers outside," behind the bus station, but did not smash any camera nor participate in any fight. Rowe also admitted he was part of the group who attacked Clancy Lake, although he said they did so because Lake cursed at them. Specifically, Rowe admitted using his heel to smash Lake's window and attempting to strike Lake when he was against the wall. [57] There is no discussion in the memorandum that Rowe took part in any of the beating inside the depot.

When the Task Force showed Kemp the Post-Herald photograph on March 9, 1979, he had no difficulty identifying individual number 18 as being Rowe, but he could not

56. Memorandum from SA Kemp to BH SAC, May 17, 1961; BH 149-16-62; Task Force 433.

57. Id., 436.

recall whether he saw the picture in 1961, or discussed it with Rowe. [58] His memoranda from that time indicate that he did. He could provide no explanation why Rowe was not identified along with others on the back of the photograph. [59] He believes he reported everything Rowe said he had done that day. [60] FBI files do not reflect any further discussion or inquiry into Rowe's activities on that day.

In his interview with the Task Force, [61] and in his testimony before the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities on December 2, 1975, [62] Rowe stated that Tom Cook was dealing directly with Rowe in making plans for the attack on the freedom riders. His own reports from the time show that he has exaggerated his role, and that Cook was working through Hubert Page, the Grand Titan. [63] Also, Rowe told the Task Force that he believes he saw two FBI agents at the station taking pictures of the

58. Kemp Interview by Task Force, supra n. 37 at 57, 61.

59. Id., 60.

60. Id., 57.

61. Rowe Interview by Task Force, supra n. 37, Vol. II at 97.

62. Senate Select Committee on Governmental Operations with Respect to Intelligence Activities, 94th Congress, Vol. II at 117 (testimony of Rowe).

63. Teletype from BH SAC to Director, May 12, 1961; BH 157-48-27; Task Force 387.

violence, [64] but we could find no evidence to support this and believe it is false.

64. Rowe Interview by Task Force, supra n. 37, Vol. II at 106.

VI. MAY 1961 - JUNE 1963

The files indicated that Rowe's informant career for the next twenty-five months is relatively uneventful. He continued to report regularly on klan activities, which mostly were cross burnings, speeches, and conventions known as "klonvocations". The Birmingham field office advised Headquarters that "he is held in esteem by Robert M. Shelton, Imperial Wizard of the new United Klans of America, and his advice and company is sought frequently by Hubert Page, a member of Eastview klavern and now Grand Dragon [state leader] for Alabama of the United Klans of America, Inc." [1]

Four events in this period are particularly noteworthy, and they illustrate once again the costs and rewards of using informants.

A. The Bessemer Carnival and Krystal Kitchen Incidents

A mass meeting of all the klansmen in northern Alabama was held on April 11, 1962, to discuss the fact that blacks had been mixing with whites at a carnival then being held in honor of Bessemer's diamond jubilee. Rowe and an informant from another klavern reported that Grand Dragon Hubert Page had given orders for a select group of klansmen to bring their weapons to the carnival at 9:00 p.m. on April 12th. [2]

1. Memorandum from BH SAC to Director, Oct. 13, 1961; HQ 137-6295-8; Task Force 838-39.
2. Memorandum from BH SAC to Director, Apr. 13, 1962; BH 100-3080-1419; Task Force 891-92.

One man at the meeting brandished a black leather belt designed to hold nuts and bolts which he said he was going to use on the blacks.[3] The Bureau immediately alerted Bessemer Police Chief George Barron, who dispatched an extra detail of police to cover the carnival.[4] Chief Barron called at 11:30 p.m. on the 12th, and informed the Birmingham field office that the carnival closed that evening without incident.[5] The next morning, Rowe reported that the klansmen had arrived on schedule, but only milled around the area, and had done nothing. Rowe pointed out that the carnival's final day was the 14th, and that there were no additional plans for violence. [6]

Six weeks later, a curious entry was made in Rowe's informant file. It is a report he prepared describing what happened on April 12th:

We were very busy but learned that some of the Klansmen were determined to stop the Negroes from attending the Carnival and going in the various features along with white people. Some of the Klansmen carried chains, others carried battery cables, knives and a few guns. It was difficult to keep track of all the men but we learned that a Klansman named CAGLE, another named WYMAN LEE and possibly BUDDY GALYEAN were arrested by Bessemer Police on this occasion. They were later brought into Recorders Court in Bessemer where the judge dismissed several cases including those against the above named Klansmen,

3. Report of Lewis Coalburg to SA McFall, Apr. 12, 1962; BH 105-655-24-; Task Force 900.
4. BH SAC to Director, supra n. 2 at 892.
5. Teletype from BH SAC to Director, Apr. 13, 1962; BH 100-3080-1418; Task Force 890.
6. BH SAC to Director, supra n.2 at 892-93.

according to our best information. We learned that BUDDY GALYEAN was wielding a battery cable and it is known that GENE THOMAS of [Bessemer] was hitting one big Negro over the head with some kind of chain.[7]

He signed this report using his code name Karl Cross on June 1, 1962, one and a half months after the incident. As the reader can tell, the report is vague about what Rowe was doing. When the Task Force interviewed Rowe, he stated that he beat several people that evening, and told the Bureau what he had done.[8] The agent handling him at the time, Byron McFall, told the Task Force that his memory of the event is vague, but he does not believe Rowe told him he was personally involved in the fighting.[9]

The facts are ambiguous. It is not clear why Rowe wrote a supplementary report on June 1st, but it seems that Rowe did not tell McFall everything he had done when reporting on April 13th, or on June 1st either. On the other hand, Rowe's informant file does not contain any indication that McFall attempted to follow up on the many unanswered questions in the June 1st report.

McFall described his attitude toward informants and their work:

7. Report of Rowe to SA Byron McFall, June 1, 1962; BH 170-9-SF-110; Task Force 896.
8. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979; Vol. I at 78.
9. Byron McFall Interview by Task Force, Mar. 7, 1979, 31.

[N]o informant, especially on security matters, was encouraged to engage in the activities of the infiltrated organization. But you have to face this item of reality, and that is, . . . if he's going along as if he were a good, solid Klansman, he's going to have to act like he engages in the activities, and go along with them, or he'll never find out what's going on.

I don't want this to be construed as a subtle way of saying that we instructed him at all; because we did not. He was instructed not to engage in violence, just as criminal informants are instructed: Don't engage in criminal activities in order to get information for us. We got all the information we need.[10]

A similar incident occurred on December 2, 1961, when a group of klansmen stopped at the Krystal Kitchen restaurant in Birmingham for hamburgers, and discovered a black sitting at the counter. Rowe reported that a "general fight ensued" which was broken up by the police.[11] The files give no indication that he was personally involved, although Rowe now freely admits he beat up two people there.[12] Again, it is not possible to determine if Rowe failed to report the incident, McFall failed to record it, or if Rowe is now not telling the truth.

B. Assassination Attempt On Rev. Fred L. Shuttlesworth

As Rowe arrived at a meeting of the Eastview klavern on July 19, 1962, he was called aside by Grand Dragon Hubert

10. Id., 18-19.

11. Memorandum from BH SAC to Director, Feb. 13, 1962; HQ 137-6295-9; Task Force 877.

12. Rowe Interview by Task Force, supra n. 8, Vol. II at 275.

Page and was taken into a side room for a private meeting with several other klansmen. [13] The subject was the recent Federal Court decision desegregating the Dobbs House restaurant at the Birmingham airport. Hubert Page told the group they were selected for the meeting because they were all trusted klansmen.

According to Rowe, Page said that Mayor Arthur Hanes and Commissioner Bull Connor were "tired of the way things [w]ere going in the racial situation in Birmingham, but that their hands [were] tied." Page said that Tom Cook of the Birmingham Police had informed him that Rev. Shuttlesworth was going to lead a group into the Dobbs House on July 21st or 22nd to test the desegregation ruling. Page bragged that the police had promised protection if the klan took action against the Shuttlesworth group, and he claimed to have made arrangements with Governor John Patterson for pardons if they were caught and convicted. [14]

Page then described the plan of attack. [15] Four klansmen were to start a fight with the demonstrators at the restaurant while one man would use the fight as cover to quietly kill Rev. Shuttlesworth with a knife. Huey Lipscomb, a klansman later to become a FBI informant, agreed to kill him. [16]

13. Report of Rowe to SA McFall, July 20, 1962; BH 170-9-SF-123; Task Force 1030.

14. Id., 1030-31. Teletype from BH SAC to Director, July 20, 1961; BH 157-356-43; Task Force 1025-26.

15. BH SAC to Director, supra n. 14 at 1026-28.

16. Id., 1028.

Page said there were two policemen on duty at the airport, one an old man who would feign a heart attack as the melee started, and the other was to be subdued by a klansman. Rowe said he tried to point out that "doing away with Rev. Shuttlesworth would only cause more trouble and that someone would step into his shoes, but the others were too worked up to listen to reason." [17] Page said that the police had informed him that Rev. Shuttlesworth was usually accompanied by two body guards, and Rowe was assigned to fight one of them. [18]

The allegations of police complicity posed a dilemma for SAC Henry A. Fitzgibbon. Revealing that the FBI knew of the plot might dissuade the conspirators from killing Shuttlesworth, but it might also put Rowe's life in jeopardy by exposing him as an informant. This is, in fact, exactly what happened.

On July 20, 1962, SAC Fitzgibbon called Mayor Hanes and Police Chief Moore and advised them in guarded terms that the Bureau was aware of a serious threat to the life of Rev. Shuttlesworth should he appear at the Dobbs House. [19] Moore replied that he would have a special detail at the airport

17. Id., 1026.

18. Id., 1026-27.

19. Airtel from BH SAC to Director, July 23, 1962; BH 100-3080-1497; Task Force 1037-38.

over the weekend.[20] Floyd Mann, Director of Public Safety for Alabama, was given the same information.[21]

Meanwhile, the Bureau located Rev. Shuttlesworth in Cincinnati, and an agent advised him in person of the threat to his life.[22] Rev. Shuttlesworth was grateful for the information, and indicated that he planned to arrive in Birmingham on July 30th, rather than the 21st.[23]

The klansmen, and Rowe, worked in shifts at the airport all through the weekend of July 21st and 22nd, and the klansmen were disappointed when Rev. Shuttlesworth did not appear.[24] Groups of blacks were seated and served on both days at the Dobbs House, but the klansmen made no move against them because of the extra policemen.[25]

On the evening of July 22nd, Page cornered Rowe and told him that Page's contact in the police department had just informed him that the FBI knew about the klan's plan, and this could only mean that one of six men had been talking too much.[26] Page said he did not specifically suspect

20. Id., 1041.

21. Id., 1037.

22. Teletype from Cleveland SAC to Director, July 21, 1962; BH 100-3080-1496; Task Force 1034.

23. Id.

24. Teletype from BH SAC to Director, July 22, 1962; BH 100-3080-1494; Task Force 1035.

25. Teletype from BH SAC to Director, July 26, 1962; BH 100-3080-1501; Task Force 1043.

26. BH SAC to Director, supra n. 19 at 1038.

Rowe, but that the lives of the informant and his family "would not be worth a plug nickel even if it took twenty years to get them". [27] Page never figured out who the informant was, and he continued to confide in Rowe. However, one of the six conspirators, Bill Holt, never completely trusted Rowe again, and tried on several occasions to have him thrown out of the klan. [28]

C. The Trip to Tuscaloosa

On June 8, 1963, Rowe advised the Birmingham office that twelve members of the Eastview 13 security guard were to travel to Tuscaloosa, Alabama, apparently in connection with the attempt to desegregate the University of Alabama. Klansman Herman Cash asked Rowe to bring Rowe's unregistered carbine. The FBI immediately notified local authorities, military intelligence and the Department of Justice [29]

Several hours later Alabama's Director of Public Safety told the FBI that the Alabama Highway Patrol had arrested six men on Highway 11 just outside Tuscaloosa. The men had six loaded pistols, two night sticks, a bale hook, two sabres and two bayonets. All of the men arrested were from the Birmingham area including Gary Thomas Rowe [30]

27. Teletype from BH SAC to Director, July 20, 1962; BH 100-3080-1505; Task Force 1028.

28. See Chapter VIII, n. 94.

29. Teletype from BH SAC to the Director, June 8, 1963, BH 157-191-571; Task Force 1216.

30. Memorandum from SA Harry J. Degnan to BH SAC, June 8, 1963, BH 157-191-625; Task Force 1217-1218.

FBI files show that Rowe's tip was thus responsible for preventing what might have been serious bloodshed and also led to his own arrest. [31]

31. Memorandum from Alex Rosen to Alan Belmont, June 10, 1963, BH 157-728-465; Task Force 1228.

VII. ROWE AND THE BIRMINGHAM BOMBINGS OF 1963 AND THE ALLEGED SHOOTING OF AN UNIDENTIFIED BLACK MAN

A. The Bombings

In 1963, Birmingham was shaken by a series of bombings, most of which Federal law enforcement officials considered the work of the Ku Klux Klan:

(1) A dynamite explosion at the Gaston Motel, owned by a wealthy and prominent black businessman on May 11, 1963;

(2) Two dynamite explosions, also on May 11, 1963, at the home of Reverend A. D. W. King, the brother of Dr. Martin Luther King, Jr.;

(3) The bombing of the home of a prominent black attorney, Arthur Shores, on August 20, 1963;

(4) A second dynamite explosion at Mr. Shores' home on September 4, 1963;

(5) The firebombing of A. G. Gaston's home on September 8, 1963;[1]

(6) On September 15, 1963, an explosion at the 16th Street Baptist Church, killing four black girls and injuring at least nineteen others;

(7) On September 25, 1963, two shrapnel bombings in a black neighborhood at 1601 Center Street South.

1. Memorandum from Alex Rosen to Alan Belmont, Sept. 18, 1963, HQ 157-2-4-268, Task Force 1431.

Although no one was injured, there was extensive property damage.[2]

In this section, we will primarily examine whether the FBI had reason to suspect Rowe of being involved in any of these bombings.

1. Firebombing of A. G. Gaston Residence

On September 8, 1963, A. G. Gaston's home in Jefferson County, Alabama, was struck by two firebombs. FBI records indicate that the "facts in this firebombing were brought to the attention of the Department [of Justice] on September 8, 1963, and no investigation was requested.[3] However, the Birmingham office of the FBI maintained a file on it.[4] Rowe discusses this incident in his book,[5] without saying he was there when the bombs were planted. However, in an interview with Alabama law enforcement officials in 1977, Rowe claimed that he "was in on that" bombing.[6] Rowe stated that he suggested to one of the alleged klan participants: "Why don't we just show his [Gaston's] ass up? You know, we'll go out and bomb" his home.[7] Although many klansmen

2. FBI Letterhead Memorandum, Sept. 29, 1963, BH 157-331-53, Task Force 1605-07.

3. Rosen to Belmont, supra n. 1, Task Force 1431.

4. BH 157-341.

5. Rowe, My Undercover Years with the Ku Klux Klan, 94-95 (1976).

6. Interview of Rowe by John Yung, Bob Eddy, Jack LeGrand, and Ernie H. Cantrell, Sept. 12, 1977. HQ 62-118023 at 317-29.

7. Id. at 319.

apparently did not trust Rowe, he maintains that he joined about thirty klansmen at Gaston's home.[8] He described how they crawled on their hands and knees past an armed guard, while a klansman left Rowe and crept up to the front of the house and lobbed a "quick flare" at the home.[9] Rowe told the Alabama officials in 1977 that he contacted the FBI that evening and described the Gaston bombing. Rowe also informed the Task Force about the Gaston home bombing,[10] again saying he reported the incident to the FBI.[11]

However, our review of FBI files, including the Gaston bombing file, BH 157-341, and Rowe's informant files, produced no record: (1) that Rowe was near the Gaston home on September 8, 1963, or any other time; (2) that he discussed the bombing with any FBI officials; or (3) that he was ever suspected of being involved.

2. The Bombing of the 16th Street Baptist Church

A. Factual Background

On the morning of September 15, 1963, about two hundred people were attending Sunday services at the 16th Street Baptist Church, when at 10:19 a.m., a dynamite blast exploded at the church's side entrance, killing four young black girls, and injuring 19 others. The blast shattered the stained glass windows on the east side, tore the doors

8. Id., 322.

9. Id., 325.

10. Id., 329. Gary Thomas Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. II at 2-9, 17-21.

11. Rowe Interview by Task Force, supra n. 10, Vol. II at 7-8.

off their hinges, destroyed an outside concrete stairway and sent chunks of plaster showering down upon the congregation. [12] The bomb exploded in an empty basement room, blew down a wall, and hurled rocks and debris into a Sunday school room where the children were reassembling for closing prayers. [13] It was the forty-first bombing in Birmingham since 1947. [14]

In Washington, President John F. Kennedy expressed "outrage and grief" over the killing. [15] Civil Rights Assistant Attorney General Burke Marshall was ordered to fly directly to Birmingham. The FBI dispatched ten special agents and Little Rock SAC Roy K. Moore to conduct a full-field investigation, including an immediate crime scene search, interviewing witnesses and examining files to identify key suspects. [16]

On September 16, Attorney General Robert F. Kennedy telephoned his FBI liaison Courtney A. Evans at 5:20 p.m. and asked for a progress report on the investigation. Evans told him the Bureau was conducting an "all-out, no holds barred investigation," but had nothing concrete to report. On Evans' memorandum to Belmont, Hoover wrote, "We must not give a 'blow by blow' account (to the Department) because

12. Birmingham Post Herald, Sept. 16, 1963; BH 157-352-SF1-22; Task Force 1369-70.

13. Id., 1370.

14. Birmingham Post-Herald, Sept. 16, 1963; BH 157-357-SF1-40; Task Force 1373.

15. Birmingham Post-Herald, Sept. 16, 1963; BH 157-352-SF1-48; Task Force 1367.

16. Airtel from BH SAC to Director, Sept. 15, 1963; BH 157-352-45; Task Force 1350. Memorandum from Rosen to Belmont, Sept. 16, 1963; HQ 157-1025-28; Task Force 1396-98.

it will appear in the Star or the Saturday Evening Post." [17] Hoover insisted on this point in other handwritten notes to his top executives and complained bitterly that "everything we have done has been blatantly publicized - the number of agents sent in, the bomb experts, ... inspectors sent in. All we should have told the Department was that we had already augmented our staff at Birmingham and not given details." [18] Thus the FBI placed its "full resources" into the investigation within minutes of the explosion. [19] Over the next month or so, the investigation was "pressed relentlessly 24 hours a day, seven days a week All logical and even, when necessary, illogical leads" were pursued. [20]

B. Contacts with Rowe

Former Special Agent Byron McFall who was then Rowe's handling agent, spoke with Rowe several times on September 15, 1963. According to his report to SAC Faisst, McFall made his daily telephone call to Rowe at 9:00 a.m. Rowe had nothing to report, except to say that he had been awakened at 4:00 a.m. by a loud blast. McFall immediately investigated the matter and determined the noise Rowe heard was a boiler explosion at the

17. Memorandum from C.A. Evans to Belmont, Sept. 16, 1963; HQ 157-1025-67; Task Force 1388.

18. Rosen to Belmont, supra n. 16, Task Force 1398.

19. Interview of FBI Assistant Director Cartha DeLoach by NBC News, Oct. 16, 1963, Task Force 1327.

20. Id. 1327-28.

Southern Electric Steel Company. At 9:30 a.m., he called Rowe back to tell him so.

Less than an hour later, McFall learned of the church bombing. He telephoned Rowe immediately. Rowe provided no information and volunteered that he did not think klansmen were involved, explaining that the 16th Street Church was located in a heavily black neighborhood. He did name four klansmen as possible suspects because they had been handling "problems" for the klan, but emphasized that he had no information whatever linking these men to the bombing. Rowe then offered to do some checking. He made several telephone calls to three of the klansmen and one of their friends, but was unable to reach any of them. [21] Rowe now says that shortly after the bombing he informed his handling agent that he had seen Robert Chambliss and Tommy Blanton, Jr., in an automobile near the 16th Street Church on the night of September 13, 1963. [22] We found no document in FBI files to support this claim.

The FBI continued to interview Rowe about the church bombing, but he provided little additional information. On December 23, 1963, Rowe executed an affidavit in the presence of Special Agents J. Brooke Blake and Byron McFall. Rowe stated:

I have never been involved in any bombings and do not have knowledge of who perpetrated any of the Birmingham bombings. [23]

21. Memorandum from SA Byron McFall to BH SAC, Sept. 15, 1963; BH 170-9-SF-204; Task Force 1354-55.

22. Rowe Interview by Task Force, supra n. 10, Vol. II at 42, 50.

23. Affidavit of Gary Thomas Rowe, Dec. 23, 1963, HQ 62-118023 at 81.

However, it is reasonable to assume that the affidavit was not what it appeared to be, as Rowe also stated that he had never belonged to any klan organization -- an obviously inaccurate statement. Thus, it appears that the affidavit was written for Rowe's safety--so that he could tell the klan that he had never given information to the FBI.

C. The Bureau's Suspects

Within about two months, the FBI had focused its investigation on ten klansmen: Tommy Blanton, Jr., Charles Cagle, Robert Chambliss, Troy Ingram, Levi Yarbrough, Bobby Cherry, Earl Thompson, Billy Tipton, Gene Reeves, and Ross Keith. [24] Seven of the ten were present or past members of Eastview 13, and the others were klan associates of one or more of the seven.

The FBI particularly concentrated on Chambliss as a likely suspect. Rowe had told the Bureau less than a month before the church bombing that he had heard that Chambliss had bombed black homes in Birmingham in the past and had generally operated with four others. [25] Only two days after the bombing, a Jefferson County Sheriff's Office detective reported that Robert Chambliss had made the church bomb at klansman Troy Ingram's home on September 14, 1963. [26] A few days later, the FBI learned that Chambliss had been particularly ill-tempered the previous week and had complained that the church

24. Teletype BH SAC to Director, Nov. 23, 1963; BH 157-352-3637; Task Force 2168.

25. Report of Rowe to SA C.B. Stanberry, Aug. 22, 1963; BH 170-9-SF-185; Task Force 1304.

26. Memorandum from SA Harry Posey to BH SAC, Sept. 17, 1963; BH 157-352-242; Task Force 1415.

bomb did not kill enough blacks. [27] Apparently, Chambliss had become disenchanted with the klan's reluctance to do serious violence and had organized a new group of klansmen who met near the Cahaba River Bridge. [28]

The FBI's first important eyewitness identification of any of the above suspects in the church bombing case was from a Detroit woman, Kirthus L. Glenn. She told the Bureau that she and her date had parked their car near the church between 2:10 and 2:15 a.m. in the early morning of September 15, 1963. While there, she saw a car, which fit the description of Tommy Blanton, Jr.'s and noticed three other white men. Mrs. Glenn identified Chambliss as the man in the right rear seat of the car. [29]

By December, 1964, the Bureau received some vital new information on the church bombing case.

After 2:00 in the morning of September 15, 1963, Dale Tarrant and Abington Spaulding drove over to the 16th Street Baptist Church, where, on Sixth Avenue North near the church, they observed a 1957 blue and white Oldsmobile with Tommy Blanton, Jr., at the wheel and Chambliss in the back seat.

27. Memorandum from SA Robert Womack to BH SAC, Sept. 22, 1963; BH 157-352-922; Task Force 1493.

28. Report of Rowe to SA McFall, Sept. 19, 1963; BH 157-352-1677; Task Force 1446.

29. Memorandum from SAC Roy K. Moore to File, Oct. 27, 1963; BH 157-352-2537; Task Force 1977.

Blanton turned off Sixth Avenue at 15th Street and stopped at Sixth Avenue Alley where it intersects at 15th Street North. Tarrant and Spaulding observed two other klansmen, Bobby Frank Cherry and Herman Cash, standing beside the car. Either Cherry or Cash climbed back into the Chevrolet, while the other started walking east down the alley toward the church "carrying something by a handle." Tarrant could not identify whom he saw walking down the alley, but he was certain it was not Chambliss or Blanton. Then Blanton started up his car, drove north on 15th Street to Seventh Avenue North, turned right and proceeded east, out of Tarrant's sight.

Four or five minutes later, Tarrant spotted Blanton's car parked at the intersection of Seventh Avenue and 16th Street North with Chambliss, Blanton, and a third individual, presumably Cash or Cherry, waiting inside. Tarrant immediately saw the fourth individual walking toward the car and away from the 16th Street Baptist Church. Tarrant and Spaulding became "very frightened" and quickly left the area.

In his December, 1964, interview with FBI agents Melton Alexander and Robert Womack, fifteen months after the fatal bombing, Tarrant could not recall other vehicles or pedestrians in the church's vicinity at the time. [30]

The Task Force asked Alexander about his interview with Tarrant:

30. Report of Dale Tarrant to SA Womack and SA Melton Alexander, Dec. 15, 1964; BH 157-352-5476. Teletype from BH SAC to Director, Dec. 8, 1964; HQ 157-1025-1260; Task Force 3432.

Question: Did you believe [Tarrant] and [Spaulding] that day?

Answer: I had no reason not to, absolutely none. I did believe them, certainly. [31]

Alexander also had no recollection of anyone in the field office telling him that he was attaching too much significance to these interview reports. [32] Immediately after interviewing Tarrant and Spaulding, Alexander prepared a teletype and communicated their eyewitness accounts to Headquarters. [33] A memorandum was prepared over Alex Rosen's name for the FBI top command. [34] "Our concentration on coverage of the 'Cahaba River Group'," it read, ". . . has produced a significant breakthrough in the form of live sources who may eventually be in a position to furnish testimony in this matter." [37] Tarrant and Spaulding's reports were communicated in full to the FBI leadership, along with the caveat that neither would "testify at this time since they are literally fearful of their lives." [36]

When we interviewed Dale Tarrant in February 1979, he recanted the entire account and said that Spaulding and he were lying to the agents at the time. [37] A lie detector test

31. Melton Alexander Interview by Task Force, Mar. 1, 1979, 26.

32. Id., 29.

33. BH SAC to Director, supra n. 30 at 3431-32.

34. Memorandum from Rosen to Belmont, Dec. 8, 1964; BH 157-1025-1258; Task Force 3426.

35. Id.

36. Id., 3428.

37. Dale Tarrant Interview by Task Force, Feb. 8, 1979, 2.

administered to Tarrant at the request of the Alabama Attorney General in August 1977 suggests that Tarrant and Spaulding were not being truthful to the agents about actually seeing four klansmen near the 16th Street Church the night before it was bombed. [38] Of course, it is equally possible that the two informants are still fearful for their lives and are only now recanting, sixteen years later, to protect themselves from retaliation by the klan, particularly when some of the details of their observations of the morning of September 15, 1963, were confirmed by Kirthus Glenn, a woman whom they apparently did not know when they spoke with the FBI in 1964. [39]

Based on this information, Birmingham requested permission from Headquarters to discuss the evidence with the U. S. Attorney "in order that full appreciation of the prosecutive problems involved are known so that solutions or alternative courses of action may be kept under active consideration." [40] Headquarters responded by saying "any discussion with the U. S. Attorney at this time appears to be premature," adding that "... when we have witnesses ready and willing to testify in state and/or Federal court the matter will be taken up with the Department." [41]

38. Robert Eddy Interview by Task Force.

39. SAC Moore to Files, supra n. 29 at 1977.

40. Teletype BH to Director, Feb. 9, 1965; BH 157-352-5531; Task Force 3568.

41. Teletype Director to BH, Feb. 10, 1965; BH 157-352-5535; Task Force 3574.

In May 1965, Birmingham again recommended that the case was ripe for Departmental action. In a memorandum to Headquarters, the office stated:

No avenue of investigative activity has been overlooked and investigation looking toward the identification and location of witnesses, development of sources and informants, a program of technical and physical coverage of suspects have been emphasized.

As a result, it is apparent that the bombing was the handiwork of former klansmen, Robert E. Chambliss, Bobby Frank Cherry, Herman Frank Cash, Thomas E. Blanton, Jr., and probably Troy Ingram...."[42]

The memo listed the following support:

(1) Tarrant reported Chambliss saying on 9/14-63 "that the Negroes had been begging to integrate, but after Sunday they would be begging to segregate." Also he expressed hatred toward the pastor of the 16th Street Baptist Church and the activities taking place at the church.

(2) Tarrant saw Blanton, Herman Cash, Cherry and Chambliss in Blanton's car at the 16th Street Church at 2:15 a.m., 9/15/63--and possibly Cherry walking towards the church carrying something in his hand (corroboration by Spaulding and Kirthus Glenn).

(3) Tarrant reported Chambliss saying, "They were warned ... they would not listen ... We had to show them we meant business. More than that will have to be killed ... I don't have to do it myself. I can give orders to have it done"

(4) Thomas Owenton reported Blanton saying, "We made the bomb at Cherry's house... Dynamite was used in the bomb ... When I bomb my next church...."[43]

42. Memorandum from BH SAC to Director, May 13, 1965; HQ 157-1025-1411; Task Force 4049.

43. Id., 4049-50.

Explaining that Owenton will testify and Tarrant in all probability will testify at a state murder trial, the memo recognized that:

...no evidence is available to prove the following:

(1) method of detonation or amount and type of explosive used;

(2) who made the bomb, or who planned and/or ordered the bombing;

(3) what transpired between 2:15 a.m. and approximately 10:20, 9/15/63. [44]

The memorandum expressed the opinion that the case should be tried by state authorities, "due to the climate of public opinion favoring prosecution." United States Attorney Macon Weaver and Assistant United States Attorney R. Macy Taylor agreed that the case ought to be tried in state court. The memorandum also made clear that the office had not discussed specifics of the case with the U. S. Attorney and strongly recommended that he be briefed in order that accurate evaluation of evidence yet needed be arrived at and to insure appropriate direction of remaining investigations. [45]

"Following this, and with Bureau approval, a conference would be held [and] attended by the above representatives of the U.S. Attorney's Office and the Birmingham FBI Office with EARL MORGAN, Solicitor, Tenth Judicial Circuit, to obtain his views as to the prosecutive merits of this case in the local courts." [46]

44. Id., 4051.

45. Id., 4052.

46. Id., 4054.

The memorandum had previously noted that "delay in prosecution, progressively continued, progressively decreases the chances of effective prosecution of this case." [47]

Six days later the Bureau sent Birmingham a one paragraph response: "From an evaluation of the evidence received thus far in this investigation, the chance of successful prosecution in state or Federal court is very remote. In view of this, the Bureau disapproves at this time of the conference you recommend with the U.S. Attorney and the Solicitor for the 10th Judicial Circuit in Birmingham." [48]

The Task Force could find no record in FBI files that the evidence from Tarrant, Spaulding, Owenton, and Glenn was ever given to officials at the Department or the U. S. Attorney's Office for a prosecutive opinion.

Consequently, the church bombing case never even reached a grand jury until 1977. No indictments were ever brought against any of the klan suspects until Robert Chambliss was indicted and convicted in 1977 in an Alabama state court of the first degree murder of the children killed at 16th Street Baptist Church. [49]

47. Id., 4053.

48. Memorandum from Director to BH SAC, May 19, 1965; BH 157-352-5741; Task Force 4067.

49. Memorandum from BH SAC to Director, May 4, 1978; MO 157-416-421; Task Force 5315.

D. Rowe as a Suspect

The Task Force discovered no evidence from FBI files linking Rowe to the church bombing or suggesting that the FBI ever considered him to be a suspect.

On November 13, 1964, FBI informant Dale Tarrant was asked his opinion as to who was responsible for the bombing of the 16th Street Church. He identified nine persons who participated, four others who might have participated in furnishing the dynamite which became the fatal bomb, and eleven other men including Rowe who according to Tarrant "had knowledge" about the bombing. [50] The Task Force found no indication that Tarrant's opinion generated any investigation about Rowe's knowledge or involvement in the bombing even though Rowe had previously provided no information which we found concerning who was responsible.

Apparently, the FBI did not show Rowe's picture to persons who may have had information about the church bombing case, even when pictures of suspects were shown. However, Rowe's photo was shown to FBI informant 'Wylam Pratt' in March, 1964, in connection with the FBI's investigation of the church bombing case. [51] The FBI may well have shown Rowe's picture to this person, however, solely to minimize the risk that Pratt would suspect Rowe was an informant.

50. Memorandum from SA Womack to BH SAC, Nov. 13, 1964; BH 157-356-160; Task Force 3361-62.

51. Report of Wylam Pratt to SA J. Brooke Blake, Mar. 18, 1964; BH 170-22-7; Task Force 2484.

FBI files show that Chambliss did not trust Rowe and made a definite effort to stay away from him. For instance, in July, 1964, Chambliss suspected that Rowe was an FBI informant. He reportedly said that if the klan found him guilty, at a klavern meeting, Rowe "would not leave the meeting alive." [52]

In August, 1963, Rowe was one of the Eastview 13 members who was assigned to locate the shack along the Cahaba River where Chambliss and other dissident klansmen were meeting. [53] There is no record in the files that Rowe ever joined up with Chambliss and the Cahaba River group.

The Task Force interviewed FBI agents who were in Birmingham in the 1960's and asked whether they ever suspected Rowe in the church bombing case or the other 1963 Birmingham bombings.

SAC Ray Faisst can not recall Rowe ever being connected with dynamiting activity. [54] ASAC Robert Jensen has no knowledge that any Bureau employee ever suspected Rowe as being involved in the Birmingham bombings. [55] James L. McGovern, who arrived in Birmingham in March, 1965, and became the SAC there at the end of 1965 never heard that any FBI employee

52. Memorandum from BH SAC to Director, July 17, 1964; BH 157-352-4889; Task Force 2986.

53. Interview of Rowe by SA Neil P. Shanahan, Dec. 23, 1964, BH 105-653-733; Task Force 3486-87.

54. Raymond L. Faisst Interview by Task Force, Mar. 6, 1979, 96-97.

55. Robert Jensen Interview by Task Force, Feb. 28, 1979, 100.

ever suspected Rowe of being involved in the bombings. [56] Nor did any of the non-supervisory agents the Task Force interviewed suspect Rowe personally or hear that any other FBI person suspected him, [57] except Neil Shanahan who recalled there may have been some general speculation in the Birmingham office of Rowe's involvement in the Birmingham bombings. [58] Former Special Agent Melton Alexander, who took charge of the Birmingham office's investigation of the church bombing in 1965, recalls that the FBI considered everyone who was connected with the klan as a suspect in the case. Thus Rowe who was ostensibly a klan member was not eliminated as a suspect merely because of his informant status. [59]

3. The Center Street Bombings

At about 1:30 a.m., September 25, 1963, an explosion in the vicinity of 1601 Center Street was reported to the Birmingham police. Fifteen minutes later, a second explosion went off in the street and blew a three by two foot hole, 18 inches deep, into the pavement. The force of the blast sheared off a wood light pole which fell back into a vacant lot, and sent chunks of curbing and sidewalk flying. The second bomb had been

56. James L. McGovern Interview by Task Force, Feb. 23, 1979, 102-03.

57. Robert Murphy Interview by Task Force, Mar. 8, 1979, Vol. I at 31-32. Byron McFall Interview by Task Force, Mar. 7, 1979, 52. J. Brooke Blake Interview by Task Force, Feb. 22, 1979, Vol. II at 14-15, 33-34. Neil Shanahan Interview by Task Force, Feb. 27, 1979, 239-40. Also see John Downey Interview by Task Force, Feb. 26, 1979, 28.

58. Agent Shanahan Interview by Task Force, supra n. 57, 239-40.

59. Alexander Interview by Task Force, supra n. 31 at 5-6, 45.

placed in a metal container and was filled with nuts, bolts, nails, and pipe sections. [60] This material was later found embedded in the sides of seven neighboring homes. Some of it had shot into nearby houses, breaking windows and damaging siding. Miraculously, no one was hurt.

The FBI's investigation revealed that the first explosion was a "noisemaker," designed to attract a crowd of people (it was an all black neighborhood) and police to be cut down by the shrapnel bomb which went off seconds later. [61] A crowd of onlookers did come out of the houses after the first bomb went off, but somehow, narrowly escaped injury.

Special Agent Harry T. Posey was assigned to the desk that night at the FBI field office. At 1:33 a.m., he heard a Birmingham Police Department broadcast reporting on the first Center Street explosion. One minute later, Tommy Rowe called in to inform the office that he was in the area, had heard an explosion, and would rush to the bombing site. [62] Six minutes later, Rowe called his handling agent, Byron McFall, to state that he had taken his girlfriend home less than ten blocks from

60. Memorandum from Rosen to Belmont, Sept. 25, 1963; HQ 157-J-4-25; Task Force 1514. Teletype from BH SAC to Director, Sept. 25, 1963; HQ 157-352-733; Task Force 1516.

61. Id., 1514, 1517-18.

62. Memorandum from SA Posey to BH SAC, Sept. 25, 1963; BH 157-407-5; Task Force 1527.

the explosion site. While they talked, Rowe heard another explosion but could not tell from where the noise came. [63]

In his February 21, 1979, interview, Rowe recalled Birmingham Police Officers J. D. Allred and James Vines driving up to a phone booth and asking him about the explosion. [64] When asked what he was doing in an all black neighborhood, Rowe explained that he had to take Sixth Avenue South to drive his girlfriend, Helen Metcalf, back to her apartment. [65] Rowe said he called the FBI office to report that he heard what he thought to be a bomb. "And while I was on the telephone, another bomb went off." [66]

Later that night, Rowe called the Birmingham Police Department and learned that Officers Vines and Allred wanted to talk to Rowe again. [67] Knowing he had seen them on occasion at the Disabled Veterans Hall, he told the department switchboard operator that he would stop by there on the way home. [68] Not finding them there, he drove to Alley's Drug

63. Memorandum from SA McFall to BH SAC, Sept. 25, 1963; BH 157-407-18; Task Force 1531. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. II at 67.

64. Rowe Interview by Task Force, supra n. 63, Vol. II at 65-66.

65. Id., Vol. II at 66.

66. Id., Vol. II at 67.

67. McFall to BH SAC, supra n. 63 at 1531.

68. Id.

Store on Seventh Street and Tuscaloosa Avenue at 3:10 a.m., where he knew Vines and Allred sometimes breakfasted. McFall reports that Rowe saw them there, but for some unexplained reason, they were unable to talk because a Birmingham Police Department official came in and sat down with them. [69]

Rowe reported the above to McFall at 8:45 the morning after the Center Street bombing on September 25, 1963. McFall asked him about Chambliss. Rowe replied that Chambliss had not been attending klavern meetings lately and had "no information whatsoever indicating Chambliss [was] responsible for or has any information about the recent bombings." [70] He promised to keep trying to find out who was responsible. [71]

Earlier in the year, March 24, 1963, Rowe had similarly given the FBI an immediate report of a bombing at the home of Elizabeth Williams, also in an all black neighborhood. Special Agent McFall said Rowe was able to report it so quickly because Rowe received the report from one of his police contacts. [72]

69. Id.

70. Id., 1532.

71. Id.

72. Memorandum from SA McFall to BH SAC, Mar. 26, 1963; BH 170-9-SF-159; Task Force 1135.

The Task Force found no evidence that the FBI interviewed either Officer Vines or Allred to learn what they knew about Rowe's activities on the night the Center Street bomb went off or why they wanted to talk to Rowe. However, in April, 1964, Special Agent Blake reinterviewed Rowe about the Center Street bombing. [73] His memorandum states that when Rowe met Vines and Allred on September 28, 1963, they said that they did not mind the klan "killing Negroes, but don't get us," [74] which implies that they could have suspected Rowe was involved and were merely warning the klan and Rowe to be more careful about their bombing targets.

Special Agent McFall told us that he did not suspect Rowe in the Center Street bombings in spite of the fact that Rowe was near where a bomb exploded. This suggested to McFall that Rowe was:

doing a good job if he's there somewhere where he's knowing what's going on. There would be no percentage in him trying to commit violence. He wouldn't gain anything by it. [75]

In contrast to the 16th Street Church bombing, Rowe provided the FBI with useful information about the Center Street bombing. On October 7, 1963, he told Agent McFall that "Huey Lipscomb" had told Rowe and other klansmen in December, 1962, how to make

73. Memorandum from SA Blake to BH SAC, May 6, 1964; BH 157-407-197; Task Force 2664.

74. Id.

75. McFall Interview by Task Force, supra n. 57 at 43.

a shrapnel bomb. Lipscomb explained that a person could take an old tool box and fill it with iron and nails which, when used with an explosive could "hurt a lot of niggers." [76] Seven months later, FBI agents interviewed Rowe about the 1963 Birmingham bombings, and Rowe stated that only three days before the church bombing and thirteen days before the Center Street bombings, Rowe had heard a group of klansmen discussing shrapnel bombs.

During this conversation CHAMBLISS made the statement, which [Rowe] heard, that "two bombs should be made, one to draw out the 'niggers' and the other to kill them".... [Klansman] Walker again asked how to make a shrapnel bomb and [Lipscomb] said that an old syrup can or tool box loaded with nails, bolts, and other metal fragments and 1/2 stick of dynamite "would really make a mess." [77]

The Task Force found no record that Rowe provided this information to the FBI until at least seven months after the Center Street shrapnel bombings. Nor did we find any record in FBI files that any FBI official asked why this report was not filed at the time of the klavern meeting on September 12, 1963. Moreover, Rowe's May 7, 1964, report directly conflicts with the reports he gave to the FBI immediately after the church bombings; namely, that he did not think klansmen were

76. Memorandum from SA McFall to BH SAC, Oct. 9, 1963; BH 157-352-1674; Task Force 1783.

77. Report of SA Downey and SA Blake, May 7, 1964; BH 157-339-818; Task Force 2675.

involved and that he had no reason to believe Chambliss was either. [78]

However, Rowe told the Task Force that on several occasions agents asked Rowe why the files were barren of certain information which Rowe claimed he previously gave to another agent. Rowe told us that when he indicated on several occasions to an interviewing agent that he had told, on an earlier occasion, another agent the same facts, his interviewer replied that the absence of the information from FBI files was "wierd." [79]

78. See note 70, supra.

79. Rowe Interview by Task Force, supra n. 10, Vol. II at 83.

VII. ROWE AND THE BIRMINGHAM BOMBINGS AND THE SHOOTING OF AN UNIDENTIFIED BLACK MAN IN 1963

B. The Shooting of an Unidentified Black Man.

The Task Force questioned Rowe about reports that appeared in the New York Times in July 1978, that he shot an unidentified black man on the streets of Birmingham in the summer of 1963.[1] In his interview with the Task Force, Rowe confirmed the event but could not recall exactly when the incident occurred.[2] He recalls driving down 8th Avenue towards Birmingham Southern College near his home. He had been drinking and was driving alone. He rounded a curve, looked up, and saw a crowd of black people milling about the street; some were pounding on a taxi; others were dragging a woman out the taxi's door. He saw a group beating up a white man and throwing bricks. Suddenly, a brick smashed his rear view mirror to his left.[3]

And I looked this way, I saw a great big ass black man--at that time, I'd say he was about my size. He had on a white tee shirt and dungarees, to the best of my knowledge. And I saw him, like drawing back, and the kids was hollering, 'Kill him! Kill him!' Just all kind of shit, beating on the car.

Rowe turned to his left and saw the black man rear back and throw what appeared to be a brick.[4]

1. New York Times, July 8, 9, 11, 1978.
2. Gary Thomas Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. I at 100.
3. Id., Vol. I at 101-02.
4. Id., Vol. I at 102-03, 115.

When I seen what was happening up there, I grabbed my pistol [a two-inch barreled .38] out of my pocket . . . or my glove compartment . . . and he was coming already coming this way, with the brick, when I shot. . . .

[H]e grabbed just like this [holding his mid-section], in his chest, and both feet went out from under him just like you tripped him. . . . [H]e just kind of plopped down like that. Well, when I shot, all you could hear was, 'Aaah,' screaming, raising hell, and clearing away. . . . [5]

Rowe did not get out of his car. Instead, he "floored" it, and the crowd scrambled out of his way. [6] He immediately motored up to a barricade where several policemen, including a motorcycle police sergeant, were standing, and pulled up to an officer carrying a shot gun.

'Whew! Better get some people back there,' he recounted. 'I think I just killed a man.'

And he looked at me just as nonchalant as shit; in fact . . . he comes over, and he puts his arm up kind of in the window, and he looks at me and says, 'You all right?'

I said, 'Yeah.'

And he says, 'What's going on?' [7]

The policemen turned to each other and discussed whether to barricade another street. Rowe continued:

'You better get some people in there. There's a lot of people getting killed down there, a lot of people. . . . [T]here's people getting killed back there.'

5. Id., Vol. I at 103, 115. Rowe could not recall whether he reached for his gun out of his glove compartment, pocket, or holster.

6. Id., Vol I at 104.

7. Id., Vol I at 106.

And he looks at me, and he says, 'You all right?' Three times he asked me.

And I said, 'Yeah, I'm all right.' [8]

The officer then asked Rowe if anyone took down his license plate number. Rowe was baffled by the reaction. He had no idea. "How the hell do I know if anybody got my tag number? There was a thousand goddamn niggers back there." [9]

The policeman then asked where he lived and again whether he was hurt. The officer stated:

'Hey get the hell on out of here, okay? Good shooting.'

If I live to be one million years old, that's what that man told me: 'Good shooting.' [10]

Rowe testified in his interview with the Task Force that he went straight home and called Special Agent Byron McFall and described the incident in detail. [11] He said McFall took down the information and called him back somewhat later, and arranged a meeting at a lumber yard not far from where the alleged incident occurred. [12] Rowe could not remember if McFall was alone. Rowe then stated that he submitted a written report to McFall and kept no copies. [13]

8. Id., Vol. I at 106-07.

9. Id., Vol. I at 107.

10. Id., Vol. I at 108.

11. Id., Vol. I at 110.

12. Id., Vol. I at 111-12.

13. Id., Vol. I at 112.

McFall told him, Rowe maintained, to forget the incident "to the day you die." [14]

The Task Force interviewed former Special Agent Byron McFall and repeated Rowe's story to him. McFall replied that it is "an absolute falsehood. He never did tell me. If he had, it'd been written up. If he'd submitted a report, it'd be in [Rowe's informant file.]" [15]

When we told him it was not, Judge McFall repeated that Rowe's story is "an absolute untruthful statement." [16]

Question: The whole story that Mr. Logan just said?

McFall: Yes, certainly. [17] I don't think that any part of this statement is true. And I don't know how to account for it, except that he might just have been trying to set himself up. But the fact remains that he didn't tell me, and -- even though he apparently is trying to cut under me -- I would suggest that I wouldn't even consider that he'd be in a position to kill anybody.

Question: And why do you say that?

McFall: I just don't think he would, with the training that we gave him. He just understood that he wasn't to engage in any violence to that extent. [18]

Former Special Agent J. Brooke Blake became Rowe's handling agent in late 1963, replacing Byron McFall who had just retired. [19] The Task Force asked him if Rowe had ever told him about killing a black man.

14. Id., Vol. I at 118.

15. Byron McFall Interview by Task Force, Mar. 7, 1979, 59.

16. Id.

17. Id.

18. Id., 60.

19. J. Brooke Blake Interview by Task Force, Feb. 22, 1979, Vol. I at 8.

Question: Well, have you ever heard a rumor or a story that Rowe may have killed anyone prior to the time that you became his handling agent?

Mr. Blake: I've heard many comments, rumors from some other people and comments from him about how he would [do] or did certain things. A lot of this we took with a grain of salt or bragging. I recall one incident that he may have shot into a crowd.

Question: As best as you can recall, when did you find out that he had shot into a crowd?

Mr. Blake: I can't place it. I would have to go by his testimony or what you already know. I can't place any period of time. It didn't happen while I was handling him.

Question: Did he tell you that story while you were handling him?

Mr. Blake: I don't recall specifically. He bragged about many, many escapades.

* * * * *

Question: Mr. Rowe says that in the late fall or early winter of 1963 he shot and killed a black man in a riot in Birmingham, somewhere around 8th Street, 8th Avenue South, I believe is what he said. Did you ever hear that story?

Mr. Blake: No. Maybe he did the shooting or many of the shootings he was referring to.

Question: But you never heard specifically that he killed a black man?

Question: He never told you that he had shot somebody in that general vicinity back in those days?

Mr. Blake: He never told me specifically. No sir. [20]

The Task Force found no record in Rowe's informant file nor any other FBI document that Blake or any other agent reported

20. Id., Vol. I at 25-26.

Rowe shooting into a crowd, and no record that he was admonished about using his gun.

The Task Force also questioned Special Agent Neil Shanahan, Rowe's last handling agent about the alleged shooting incident. Shanahan recalled Rowe recounting the story "many times . . . five or six times." [21] When asked what he did about it, Shanahan replied that he did nothing except ask other agents whether it was true and what to do about it. [22] Shanahan recalls that Rowe "probably" told him about it after the Liuzzo killing when he spent extended periods of time with Rowe while waiting in the summer and fall of 1965 to testify in the state and federal trials. [23] Shanahan recalls someone telling him that Rowe's story might have been true, and that this person discovered after inquiring that the black Rowe allegedly shot turned himself in to Birmingham's Hilman Clinic, was treated, and discharged. [24] He apparently "wasn't hurt all that bad." [25]

Agent Shanahan believed the story then.

Question: Well, what did you see as your duty to inquire upon hearing the black man story?

21. Neil P. Shanahan Interview by Task Force, Feb. 27, 1979, 206.

22. Id., 206.

23. Id., 206-07.

24. Id., 207.

25. Id.

Shanahan: I didn't feel any particular duty to inquire at all. He did not report it to me contemporaneous with the occurrence. He told me the story, as he has told everybody else, that he did report it to his handling agent. . . .[26]

Shanahan figured that "by the time I heard the story, it was far enough removed in time that I didn't feel any overwhelming obligation to institute any investigation about it, and I didn't." [27]

Question: Did you tell any of the state or federal prosecutors, before any of those three cases in 1965, that Rowe had told you that he shot a black man?

Shanahan: No, not to my knowledge, I didn't. [28]

The Task Force did not locate any reference to this alleged shooting incident in Rowe's informant file or in any other FBI file. Nor did we locate any information that the FBI ever conducted an inquiry into the circumstances surrounding the shooting, into Rowe's alleged involvement, or into the condition or whereabouts of the victim.

On April 4, 1979, the Task Force spoke with James O. Butler of Birmingham who had been Jefferson County's coroner from 1951-1976. Throughout this twenty-five year period, Butler was solely responsible for examining the corpses of all victims of alleged homicide occurring in Birmingham and Jefferson County. We recounted the above report of the Rowe shooting and asked him to review all autopsy reports filed

26. Id.

27. Id., 209.

28. Id.

in the summer and fall of 1963 to see if any corresponded to Rowe's account.

Butler called back the following day and informed us that he had reviewed the autopsy reports from that period and could not find any such report. A black man by the name of John L. Coley was shot dead the night Arthur Shore's home was bombed on September 4, 1963, but he was clearly the victim of a shotgun blast, Butler reported. "It was definitely not a .38." [29] The former coroner also found a report on a Thomas Lyman, a black man injured in the back of the head that night, but because that report indicated Lyman was hit with a piece of mortar or cement, it did not appear in any way to correspond to Rowe's story.

Butler could not recall ever being contacted about the incident by the FBI, and there was no notation in the coroner's office file, he said, that agents had ever done so. [30] He was certain that he would have examined all homicide victims in 1963 and suggested that if Rowe's account did in fact happen, the shooting did not result in the black man's death. Had he been wounded, Rowe's victim could have been treated at any one of over a half dozen hospitals, and records of such treatment, now over fifteen years old, would be virtually impossible to find.

29. James O. Butler Interview by Task Force, Apr. 5, 1979, 1.

30. Id.

VIII. JANUARY 1964 - MARCH 24, 1965

By January, 1964, the Birmingham office had expanded its investigation of the 1963 bombings, and especially, the church bombing, by putting more agents on the case. Knowing the importance of obtaining more intelligence on key klan suspects, the Bureau also began to devote more attention and resources to developing additional informants within Eastview 13 and related klaverns.

For the first time, the Bureau had informants who began to report effectively on Gary Thomas Rowe's activities. While the record does not indicate that the FBI instructed these new informants to watch Rowe,[1] they were told to report on all klan activities. Two of them, whom we will identify here as Robin Huffman and Huey Lipscomb in order to protect them and their families from klan retaliation, became quite close to Rowe. By contrast, the informants reporting on Eastview 13 before 1964 were never close enough to Rowe to report useful information about him. In this section, we examine eleven separate incidents in which the FBI received information from Rowe and others.

A. The Request for Blasting Caps

On February 7, 1964, Rowe told his handling agent J. Brooke Blake in person that klansman William Holt asked

1. Robin Huffman Interview by Task Force, Feb. 3, 1979, 2.

Rowe a day earlier if he had some electric blasting caps, used to ignite dynamite sticks.[2] As Rowe told Blake, Holt and other Eastview members knew that a Warrior klansman had provided Rowe with a case of blasting caps the previous year and that Rowe had the caps at the time of the 1963 Birmingham bombings. Rowe told Holt that he still had some. Holt wanted four, and instructed Rowe to give them to him on February 8, 1964, at the UKA Klonvocation in Birmingham.

The day of the Klonvocation at the Tutwiler Hotel, Rowe telephoned Holt and asked if he still needed the blasting caps.[3] Holt again said he wanted four. Later in the day, Rowe approached Holt personally at the Tutwiler Hotel, and told him he had the blasting caps in his right inside coat pocket. Holt refused to take them because he said "he (Holt) was hotter than a firecracker,"[4] and told Rowe he would have someone else pick them up. And so Rowe gave the blasting caps to a Bessemer klansman, named "Big John" Burnette.[5]

Rowe told the Task Force that Blake and another agent followed Rowe, Eugene Thomas, and "Big John" Burnette out

2. Report of Rowe to SA Blake, Feb. 7, 1964; BH 157-352-4292; Task Force 2404, 2407.
3. Report of Rowe to SA Blake, Feb. 8-9, 1964; BH 105-653-600; Task Force 2413.
4. Id.
5. Id., 2414.

of the convention hall into an alley. Thomas took out his gun and told Rowe that he was going to kill Blake.[6] "I am going to kill the son-of-a-bitch. He's screwing me his last time." [7] Rowe prevented the incident by "provoking a fight" with Blake and by saying, "Hey you want to fight, cock sucker, you fight me. You know I'll whip your goddamn ass." [8] Both Rowe and Blake believe that Rowe may have kept Thomas from shooting Blake. [9]

FBI Reaction

While the Birmingham office did inform Headquarters about much of this incident, the SAC did not advise his superiors in Washington when seeking further payments for Rowe that Rowe had blasting caps in his possession. [10]

Nothing in the files indicates that the FBI asked Rowe why he acquired blasting caps or whether he ever used them. However, Special Agent Blake recalls that Rowe told him that he kept the blasting caps as a "cover." Thus this event did not trigger a suspicion that Rowe was

6. Report of Rowe to SA Blake, Feb. 17, 1964; BH 105-653-378; Task Force 2435. Gary Thomas Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. II at 79-81.
7. Rowe Interview by Task Force, supra n. 6, Vol. II at 79.
8. Id., Vol. II at 80.
9. Id., Vol. II at 81. J. Brooke Blake Interview by Task Force, Feb. 21, 1979, Vol. II at 38-39.
10. Memorandum from BH SAC to Director, Apr. 8, 1964; HQ 137-6295-22; Task Force 2583.

involved in the 1963 Birmingham bombings, even though agents learned he had the blasting caps when the bombings occurred.

B. Rowe "Would Go"

On March 18, 1964, J. Brooke Blake showed Rowe's picture to an informant, Wylam Pratt. The informant commented that Rowe was an:

Eastview Klavern member, known to be dangerous, has two carbines in his possession, and [Pratt] had heard WILLIAM HOLT say [Rowe] "would go." [11]

FBI Reaction

The Bureau files do not indicate how Birmingham reacted to this report or whether it was communicated to Headquarters. Special Agent Blake told the Task Force that he did not react to Pratt's report that Rowe was known to be dangerous because, "I knew it myself." [12] Blake understood that in klan terminology, the phrase "would go" meant that Rowe would fight, take part in an action squad, and commit violence. [13] Blake could not recall telling anyone else about the report that Rowe was "dangerous," and although he did copy the report to six other files, he failed to include it in Rowe's. Blake said:

No, heck, it was common knowledge among agents about his mannerisms. Really. It is a good thing

11. Report of Wylam Pratt to SA Blake, Mar. 18, 1964; BH 170-22-7; Task Force 2484.

12. Blake Interview, supra n. 9, Vol. II at 43.

13. Id.

he was on our side, because if he wasn't, he could have been real dangerous if he was on the other side.[14]

C. Rowe's Leadership on the Action Squad

On March 12, 1964, Rowe reported to Brooke Blake that Exalted Cyclops [Klavern leader] Robert Thomas had just assigned him to one of two squads who would serve Imperial Wizard Robert Shelton as "special or trouble" squads in case black protest demonstrations broke out in either Birmingham or Bessemer.[15] On March 26, 1964, at an Eastview 13 meeting, Rowe was instructed that he would be in charge of such a squad at a Billy Graham religious service. Rowe reported that the Eastview leadership selected Rowe to "captain" not only this squad, but five others in the klavern.[16] Also, Robert Thomas told Rowe that a tough new contingent of Eastview recruits, considered "head-knockers," had been assigned to Rowe's action squad.[17] The FBI was aware that an action squad was a "violence squad" designed to handle all "major operations" for the klan including floggings, bombings, and harassment, which could, theoretically, result in jail sentences for the participants.[18]

14. Id., Vol. II at 44.

15. Report of Rowe to SA Blake, Mar. 13, 1964; BH 105-653-627; Task Force 2468.

16. Report of Rowe to SA Blake, Mar. 26, 1964; BH 105-653-641; Task Force 2521-22.

17. Report of Rowe to SA Blake, Mar. 26, 1964; BH 105-653-639; Task Force 2533.

18. Memorandum from BH SAC to Director, Apr. 14, 1964; BH 170-9-296; Task Force 2595.

Exalted Cyclops Ronald Tidwell made no secret of the squads' duties. They were to patrol white areas of Birmingham looking for black youths. Tidwell stated:

I want the Negroes terrorized for being in the areas where they don't belong. No [holds] barred, use blackjacks, buckshot and chains.[19]

On April 7, 1964, the SAC in Birmingham, Raymond L. Faisst, advised Headquarters that Rowe's action squad took part in the klan's "missionary work"[20] including "various acts of physical violence." [21] Faisst said nothing to Headquarters at this time about what Rowe's specific duties entailed.

FBI Reaction

On April 8, 1964, Birmingham requested Headquarters to continue making informant payments to Rowe. As partial justification, Birmingham stated that Rowe:

[H]as recently been assigned as the squad leader of "Squad Number One," which squad is the "Action Squad" and he was placed in this position at instructions of Imperial Wizard, ROBERT M. SHELTON. He has also recently been named Captain of all Klavern Squads. [22]

The SAC also told the Director about the "blasting caps" incident. [23]

19. Rowe to Blake, supra n. 16 at 2522.

20. Memorandum from BH SAC to Director, Apr. 7, 1964; HQ 170-37-2; Task Force 2552.

21. Id.

22. Memorandum from BH SAC to Director, Apr. 8, 1964; HQ 137-6295-22; Task Force 2579.

23. Id., 2583.

When Headquarters responded to Birmingham's April 8 memorandum, it did not discuss Rowe's reports on the blasting caps but showed a definite interest in his heading up the Action Squad.[24] Headquarters asked a number of questions about Rowe's duties as a Squad Leader, including whether the squad was considered violent and demanded a response before authorizing more informant payments to Rowe.[25] Birmingham replied the very next day, April 14, 1964.[26] Rowe told the agents that as leader, he had the power to take action without obtaining approval from some high authority in the klan. Also, as squad leader, he made policy.[27] Rowe stressed, however, to the FBI questioners that he was in the klan "to keep acts of violence down." [28] Finally, Rowe stated that he could not have refused his assignment as action squad leader, a position he did not seek, "without compromising" himself, meaning that he was afraid klansmen would suspect him of being a government informant if he refused to serve in positions to which the klan leadership appointed him.[29]

24. Airtel from Director to BH SAC, Apr. 13, 1964; HQ 137-6295-22; Task Force 2577.

25. Id.

26. Airtel from BH SAC to Director, Apr. 14, 1964; 170-9-296; Task Force 2595.

27. Id., 2595-96.

28. Id., 2596.

29. Id., 2597.

Four days later, on April 17, 1964, Headquarters sent an urgent radiogram to Birmingham and ordered SAC Faisst:

IMMEDIATELY INSTRUCT INFORMANT TO DISCREETLY AND DIPLOMATICALLY WITHDRAW FROM HIS POSITION AS SQUAD LEADER OF QUOTE THE ACTION SQUAD UNQUOTE. IN THE EVENT INFORMANT DOES NOT DESIRE TO WITHDRAW FROM THIS POSITION HE SHOULD BE DISCONTINUED. ADVISE PROMPTLY RESULTS OF YOUR CONTACT WITH INFORMANT.

IF INFORMANT CONFORMS TO YOUR INSTRUCTIONS YOU ARE AUTHORIZED TO CONTINUE PAYMENTS OF UP TO 250 DOLLARS PER MONTH FOR SERVICES AND UP TO 60 DOLLARS PER MONTH FOR EXPENSES FOR A PERIOD OF FOUR MONTHS EFFECTIVE MAY 1 NEXT.[30]

The next day, the Birmingham office instructed Rowe to remove himself from his position as action squad leader. Rowe was told to explain to his klavern leader, Exalted Cyclops Ron Tidwell, that his working hours prevented him from doing an adequate job as squad leader.[31]

After Headquarters was advised of Rowe's removal, the Director informed Faisst by memorandum that "it is presumed that [Rowe] has remained as a member of this [action] squad." [32] Hoover stated that while the Bureau wanted their informants to report on the klan's plans for violence, informants "cannot be in positions where they would be leading or instigating violent activities, as was the case of BH-248-R," [Rowe].[33] The

30. Radiogram from Director to BH SAC, Apr. 17, 1964; BH 170-9-297; Task Force 2626.

31. Teletype from BH SAC to Director, Apr. 18, 1964; HQ 137-6295-24; Task Force 2634.

32. Memorandum from Director to BH SAC, May 4, 1964; HQ 137-6295-25; Task Force 2660.

33. Id.

Director advised that informants such as Rowe in action squads should be told that they are "not to direct, lead, or instigate any acts of violence." [34] But Rowe was to be "impressed with the necessity of keeping" Birmingham apprised of any planned violence. [35]

If the klan asked Rowe to take part in violence, Headquarters instructed the field office to make sure Rowe contacted his handling agent for guidance. If Rowe could not contact the office before violence occurred, he was to "be instructed to avoid participation wherever possible." [Emphasis added.] [36]

The concluding paragraphs demanded that Headquarters be "kept advised of all acts of violence, whether proposed or actual." [37] The term "violence" was left undefined. The memorandum was circulated to several agents in Birmingham, including ASAC Jensen and Brooke Blake, Rowe's handling agent. [38]

In his book, Rowe recalled the FBI ordering him off the action squad. Rowe says he quit as an informant after receiving this instruction. However, ASAC Jensen persuaded him to continue due to the importance of the information he was providing. [39] There is no record in Bureau files to substantiate Rowe's statement.

34. Id.

35. Id.

36. Id.

37. Id.

38. Memorandum from Director to BH SAC, May 4, 1964;
BH 170-9-299A; Task Force 2661.

39. Rowe, My Undercover Years with the Ku Klux Klan, 52 (1976).

We asked Agent Brooke Blake about Rowe's position on the action squad. Blake recalled that this issue frustrated him because:

One year somebody said, "Well, why isn't he leader? Why isn't he higher up in the klan?" and the next year, somebody would say, "Let's not have him in this position."

Blake conceded that both Rowe and he were unhappy with the Headquarter's instructions and "procrastinat[ed] and bitch[ed]" about them.[40] But Blake was certain that he passed the order on to Rowe. In fact, he recalls that he may have shown Rowe the Headquarter's directive. However, Blake admitted:

It might have been the manner in which I said--just knowing my relationship with him--that could have led him to believe that I was saying one thing, but giving acquiescence to anything else he did. That wouldn't alter my earlier testimony that he was not to initiate or instigate acts of violence.[41]

Blake's frustration with the Headquarter's May 4, 1964, directive may have been based on his concern that the klan was about to use even more violent means to block integration. In his April 8, 1964, request for authority to continue payments to Rowe, Blake noted that Robert Creel, the Grand Dragon of Alabama, had recently told an Eastview 13 meeting that "he was tired of backtracking"[42] and that if klansmen did not want to "bust ass and kill niggers,"[43] they should

40. Blake Interview by Task Force, supra n. 9, Vol. II at 54.

41. Id., Vol. II at 59.

42. BH SAC to Director, supra n. 22, Task Force 2585.

43. Id.

get out of the organization. When Rowe was removed from a leadership position, he may have thus lost a unique opportunity to learn about serious violence the klan planned for the coming year.

The Task Force spoke with Joseph Deegan, the Headquarters official who drafted the instructions to Birmingham about Rowe's involvement on the action squad.[44] We asked Deegan if the May 4 Airtel was intended to absolutely prohibit Rowe from taking part in violence. Deegan explained that although the Airtel did not in so many words prohibit absolutely Rowe's participation in violence, such an intent was nevertheless clear.

D. Beating of Blacks

On May 18, 1964, FBI informant "Huey Lipscomb" reported that on May 14, 1964, Rowe and five or six other klansmen attended a baseball game at an integrated park and did "some missionary work among Negroes seated in integrated seats." [45] Birmingham immediately passed this information on to Headquarters.[46] On June 4, 1964, Special Agent Robert Murphy clarified what Lipscomb meant about "missionary work," and concluded, that Rowe and others "beat up several Negroes." [47]

44. Joseph Deegan Interview by Task Force, Apr. 25, 1979.

45. Report of Huey Lipscomb to SA Robert Murphy and SA Neil Shanahan, May 18, 1964; BH 170-15-33; Task Force 2715.

46. Teletype from BH SAC to Director, May 18, 1964; BH 157-1025-969; Task Force 2713.

47. Memorandum from BH SAC to Director, June 4, 1964; BH 170-15-32; Task Force 2755.

Murphy told the Task Force that this information about Rowe's activity was "a piece of trivia." [48]

FBI Reaction

We could find no FBI document on whether Headquarters or Birmingham ever: (1) determined whether Lipscomb's report was accurate; (2) warned Rowe not to engage in such activity; (3) asked Rowe why he had not reported this incident in writing to the Bureau; (4) found out why Rowe was apparently ignoring the Director's May 4, 1964, directive on violence.

Rowe confirmed to the Task Force that this event took place although he claimed that it was not "klan business." [49] He said that he hit a black after the man shoved him. Also, he recalled knocking down and stripping a policeman of his gun and added that he frequently fought and raised hell on his "own time" [50] which was not reported to the FBI because he "didn't think it was none of their business." [51]

Special Agent Blake certified Rowe's continuing stability and reliability on August 14, 1964, and failed to mention in his quarterly report on Rowe that he had been seen beating up blacks at the ball park only three months earlier. [52]

48. Robert Murphy Interview by Task Force, Mar. 8, 1979, Vol. I at 46.

49. Rowe Interview by Task Force, supra n. 6, Vol. II at 263.

50. Id., Vol. II at 265.

51. Id., Vol. II at 266.

52. Memorandum from BH SAC to Director, Aug. 14, 1964; HQ 137-6295-28; Task Force 3079, 3089.

Joseph Deegan, who monitored Rowe's activities at Headquarters was not troubled by these documents because they didn't, in his view, say that Rowe actually participated in violence. [53]

E. Buying Weapons

On May 22, 1964, Lipscomb reported that on the previous evening, Rowe asked him for \$50, so that he could buy, for the action squad, a high-powered rifle, machine gun, sniper-scope, and infrared field glasses, after obtaining \$300 from action squad members. [54]

FBI Reaction

Special Agent Brooke Blake could not recall anyone telling him about Rowe's raising money for action squad weapons. Had he been told about it, he:

[C]ouldn't go back and interview Rowe specifically about things that [Lipscomb] had said, or else it would have surfaced the fact to Rowe that [Lipscomb] was an informant. [55]

We found no record in FBI files: (1) that agents investigated this weapons report to determine if Rowe was complying with FBI orders to keep out of violence; (2) that the office tried to find out what the action squad planned to do with the machine gun, high-powered rifle, and sniper scope; (3) that as a result of this report, the FBI handling agent, Brooke

53. Deegan Interview by Task Force, supra n. 44.

54. Teletype from BH SAC to Director, May 23, 1964; HQ 157-1025-982; Task Force 2729.

55. Blake Interview by Task Force, supra n. 9, Vol. II at 65.

Blake, or any other FBI official warned Rowe again about getting involved in violence; or (4) that the office ever questioned Rowe's reliability after discovering that he failed to report in writing his money raising activities.

Special Agent Blake told us:

I just can't get as upset about it [the report of Rowe buying weapons] ... because of the way--the confidence I had in him and ... if you can get your informant to get the weapons out of their [the klan's] hands--the higher velocity, automatic type weapons--at least you know they are in the hands of a safe person.[56]

Blake said he expected Rowe to tell him about such things and would have likely put this information in Rowe's informant file.[57] However, Rowe's file fails to contain any such information.

Joseph Deegan said that Lipscomb's report, even if accurate, did not indicate that Rowe was still acting as a leader on the action squad.[58]

F. Trip to Tuscaloosa

After receiving a telephone call from Robert Thomas, Rowe notified the FBI that he had been instructed to go to Tuscaloosa to meet blacks who were going to march on a store. Thomas told Rowe that Robert Shelton, who had ordered Rowe to go to Tuscaloosa, had indicated that "he wouldn't be surprised

56. Id., Vol. II at 66.

57. Id., Vol. II at 66-67.

58. Deegan Interview by Task Force, supra n. 44.

a little if somebody was killed this afternoon." [59] Later that day, the planned trip was cancelled by Robert Thomas because Thomas suspected that the FBI had overheard his conversation with Shelton. [60]

FBI Reaction

When Rowe notified the FBI about the planned trip, Special Agent Blake "instructed [Rowe] not to instigate any violence and to stay out of such if at all possible." [61]

G. The Atlanta Rally

On July 4, 1964, Lakewood Park in Atlanta was the scene of a major segregationist rally. [62]

Rowe went to the rally along with a klan associate identified here as Robin Huffman, Robert Thomas then Grand Titan for the klan's northern Alabama province, and Thomas' wife, Mildred. On their return, Rowe [63] and Huffman [64] filed reports with the Birmingham office.

Robin Huffman

Although Huffman's report on the Atlanta trip is dated July 10, 1964, he apparently briefed his handling agent four

59. Memorandum from SA Blake to BH SAC, June 3, 1964; BH 157-352-4675; Task Force 2742.

60. Teletype from BH SAC to Director, June 3, 1964; HQ 157-1025-1000; Task Force 2752.

61. Blake to BH SAC, supra n. 59 at 2742.

62. Airtel from AT SAC to Director, July 9, 1964; AT 170-12A-84; Task Force 2922.

63. Report of Rowe to SA Blake, July 6, 1964; BH 105-722-1788; Task Force 2874.

64. Memorandum from SA Womack to BH SAC, July 10, 1964; BH 157-352-4850; Task Force 2935.

days earlier because Womack prepared and sent to Headquarters an urgent teletype on his report of the Atlanta rally:

[HUFFMAN] TRAVELLED WITH ROBERT THOMAS AND WIFE AND TOMMY ROWE TO ATLANTA, GEORGIA, ON JULY THREE, SIXTY-FOUR, ARRIVING EARLY MORNING. THIS GROUP ATTENDED RALLY OF SEGREGATIONISTS WHERE FORMER GOVERNOR ROSS BARNETT, OF MISSISSIPPI, AND GOVERNOR GEORGE WALLACE TALKED. [HUFFMAN] WAS SEATED IN STAND ALMOST ABOVE AN INCIDENT WHICH OCCURRED WHEREIN WHITE MEN ATTACKED THREE NEGRO MALES WHO BROUGHT A WHITE WOMAN INTO THE MEETING. THOMAS AND ROWE WENT TO THE SCENE, BUT WERE NOT ACTUALLY INVOLVED IN VIOLENCE, ROWE BEING STOPPED BY A POLICE OFFICER BEFORE COMMITTING ANY ACTS.[65]

But Womack's July 10 memorandum to the SAC suggests that his teletype was not accurate because in his memorandum to the SAC Womack said that Huffman reported:

TOMMY ROWE hit a newspaper man who was taking a picture of the Negro fight, broke his glasses, and then hit him in the face. A policeman grabbed him, and said, "I know you are one of SHELTON'S boys, so run on and tell him I said hello." MILDRED THOMAS and informant were only about five feet away from the man who pulled his pistol on the Negro. There was quite a scuffle and they were right in the middle of it.[66]

Also, Huffman reported Rowe saying that "one of their current operations[67] was for Lipscomb to go up on some mountain and catch a lot of snakes (which he likes to do) and then the 'boys' would pass Negro cars and throw a snake inside

65. Teletype from BH SAC to Director, July 6, 1964; BH 157-352-4839; Task Force 2872.

66. Womack to BH SAC, supra n. 64 at 2935.

67. Id., 2936.

the car." [68] Rowe carried a rifle and pistol the whole trip, he reported. [69]

Rowe's Version

Rowe telephoned in his report on this trip to J. Brooke Blake on July 6, 1964, and Blake put it into writing the next day. [70] Rowe told Blake that he went to the Atlanta rally with Huffman and the Thomases. Rowe mentioned that some whites attacked several blacks, but his report to Blake says nothing about: (1) Rowe attacking a newspaper man; (2) his talking about snake throwing with Robert Thomas; and (3) his carrying a pistol and rifle on the trip. [71]

In his interview with the Task Force, Rowe denied hitting a newspaper man at the Atlanta rally. [72] Robert and Mildred Thomas and Huffman also denied Rowe was involved in such an incident in their interview with us. [73]

After the rally, Georgia's Grand Dragon, Calvin Craig, threw a party at his home in Atlanta, Rowe reported. [74] Klansmen Robert Thomas and Robert M. Creel, Alabama's Grand Dragon,

68. Id.

69. Id., 2939.

70. Rowe to Blake, supra n. 63 at 2874.

71. Id., 2874-77.

72. Rowe Interview by Task Force, supra n. 6, Vol. I at 98-99.

73. Robert and Mildred Thomas Interview by Task Force, Jan. 29, 1979; Drury Report 4, and Fleder Report 5. Huffman Interview by Task Force, supra n. 1 at 5.

74. Rowe to Blake, supra n. 63 at 2875-76.

were there. However, when we interviewed them, both Robert Thomas[75] and Creel[76] denied being there, which raised questions about their credibility and cooperativeness in light of the contemporaneous reports to the contrary by Rowe and Huffman. Creel's presence was confirmed by another FBI informant we shall call Fulton Roebuck.[77] Rowe also reported that Robert Shelton told the gathering:

"The time for playing is over, if it takes burnings, bombings, shootings ..." [Shelton] planned to wait and see what Martin Luther King had on his "feeble mind" before deciding what action he might take against any integration attempts.[78]

Also, Rowe reported that Roebuck stated that "Our dynamiter is blowing his big mouth over here," apparently referring to Robert Chambliss.[79]

Roebuck was described by the FBI as "an unusually valuable informant"[80] because he was able to get information which was not otherwise available.[81] Because this informant was held in such high regard by the FBI, the Task Force spoke to

75. Robert and Mildren Thomas Interview by Task Force, supra n. 73; Drury Report 5, and Fleder Report 5-6.

76. Robert Creel Interview by Task Force, Jan. 31, 1979, 11.

77. Report of Fulton Roebuck, July 6, 1964; 170-19A-108; Task Force 2881.

78. Rowe to Blake, supra n. 63 at 2877.

79. Id., 2876.

80. Memorandum from BH SAC to Director, Sept. 14, 1964; 170-19-33; Task Force 3155.

81. Id.

him about the meeting in Craig's residence to get an indication of whether Rowe was providing reliable information to the FBI. Roebuck told the Task Force that he did not make the "dynamiter" statement Rowe attributed to him in his report. [82]

FBI Reaction

A copy of Womack's interview with Huffman [83] (which said Rowe hit the newspaperman) was put into Rowe's informant file (170-9). However, there is no record that the office sent it to Washington. Rather on July 9, 1964, in a memorandum from the SAC to the Director, Womack sought authority to continue to pay Huffman, and neglected to say anything about the incident. [84] In addition, on July 29, 1964, Womack wrote a long memorandum to Headquarters and the Mobile office outlining the FBI's investigation of the 16th Street Baptist Church bombing between May 5, 1964, and July 25, 1964. [85] Womack wrote about Huffman's trip to Lakewood Park, Atlanta, on July 3-4, 1964, including that he was near the site where some whites beat up some blacks, but failed to mention that he observed Rowe hit a newspaperman or discussed snake throwing. In fact the Task Force has concluded that the Birmingham office failed

82. Fulton Roebuck Interview by Task Force, Feb. 8, 1979, 19-20.

83. Womack to BH SAC, supra n. 64 at 2935.

84. Memorandum from BH SAC to Director, July 9, 1964; BH 170-31-41; Task Force 2906.

85. Report to SA Womack, July 29, 1964; MO 157-416-364; Task Force 3020-21.

to bring these matters to the attention of Headquarters in Washington. Thus, in our interviews, we concentrated on how the Birmingham office reacted to Huffman's report on Rowe.

Womack told the Task Force that although he gave a copy of the report to Rowe's handling agent, J. Brooke Blake, he was under no obligation to police the informants for whom other agents were responsible.[86] In passing, he added that Rowe, as an informant, should not have committed the violence which Huffman attributed to him--"or at least he should have done it so that no one would have seen him." [87] We asked Womack why he did not mention either Rowe's "newspaperman attack" or the "snake incident" in his July 29, 1964, report on the church bombing investigation; Womack replied that these incidents had nothing to do with the church bombing. Womack was unable to explain why he nonetheless included Huffman's report on whites beating up blacks during the July 4, 1964, Atlanta rally.[88]

Special Agent Blake told the Task Force that he did not chastise Rowe after seeing Huffman's report of the Atlanta trip. He explained:

[T]he mission of the FBI was not to chastise informants for punching somebody, it was to be in a position to solve bombings and to predict

86. Robert Womack Interview by Task Force, Feb. 19, 1975, 5.

87. Id., 7.

88. Id., 6-7.

and disseminate acts of future violence. Certainly the major good offset the minor bad.[89]

Blake also told us that:

[T]he snake-type harassment was not the Bureau's mission to stop. If we knew in advance of a planned attack, we may or may not disseminate that matter to law enforcement. How in the heck are you going to set up to prevent a snake incident?[90]

Had Rowe and Lipscomb thrown snakes into cars, Blake "would have chastised" Rowe[91] by telling him not to get involved in violence except to use his fists to avoid being suspected as an FBI informant. Blake would not have done anything else to Rowe[92] such as reporting him to local enforcement officials or recommending his termination as an informant.

H. Rowe's Status as a Confidential Informant

In mid-1964, the klan's smouldering suspicions that Rowe was an FBI informant began to heat up. In June, Robert Thomas told Huffman to investigate Rowe for that purpose.[93] At the same time, William Holt, an active klansman and one of those who recruited Rowe into the klan, talked about Rowe with Huffman. Holt said he disliked Rowe and indicated he was

89. Blake Interview by Task Force, supra n. 9, Vol. II at 76.

90. Id., Vol. II at 80-81.

91. Id., Vol. II at 81.

92. Id., Vol. II at 82.

93. Memorandum from SA Womack to BH SAC, June 17, 1964; BH 157-352-4762; Task Force 2823.

concerned that Rowe was an informant.[94] Klan attorney Matt Murphy also told Huffman during this period, that he knew Rowe was an FBI informant and could prove it.[95]

Rowe soon heard about the charges and obtained a promise of a hearing from Robert Shelton, where evidence would be presented.[96] On July 16, 1964, at an Eastview meeting, Huey Lipscomb reported that five klansmen formally accused Rowe of being an FBI informant. They failed to produce any evidence and the matter died.[97] The Bureau received a similar, although second hand, account of the meeting from Huffman.[98] Rowe's version of the hearing was more detailed and was forwarded to Headquarters on July 20, 1964.[99] Rowe reported that he tore open William Holt's shirt and slapped his face, after Rowe became angry that Holt had denied having accused Rowe of being an informant.

This was apparently the last serious effort to expose him as an informant until he surfaced after the Liuzzo killing.

94. Womack to BH SAC, June 17, 1964; BH 157-352-4775; Task Force 2828.

95. Id.

96. Rowe to Blake, supra n. 63, Task Force 2876.

97. Report of Lipscomb to SA Murphy and SA Shanahan, July 17, 1964; BH 157-352-4902; Task Force 2981.

98. Memorandum from SA Ralph Butler to BH SAC, July 17, 1964; 157-352-SF2-150; Task Force 2982.

99. Teletype from BH SAC to Director, July 20, 1964; HQ 157-1025-1054; Task Force 2995-97.

However, on August 14, 1964, Robert Creel, Alabama's Grand Dragon, gave Rowe a "continuing" warning. Creel told Rowe he would kill him if he ever discovered him to be an informant. [100]

I. Possession of Weapons in Late 1964

On or about November 19, 1964, responding to an office request for the information, Rowe told Special Agent Shanahan about weapons he had seen in the hands of other klansmen. [101] He could not accurately list all the weapons he had seen, he said, but he could remember klansmen with .38, .22, and .45 caliber pistols; a .45 caliber automatic pistol; M1 semi-automatic carbines; hand grenades; M2 carbines; .22 caliber rifles; double barrel shotguns; a Thompson .45 caliber sub-machine gun; a burp gun; 303 Enfield rifles; dynamite; a .44 caliber magnum pistol; a flare gun; and blasting caps. Also, Rowe admitted that he owned M1 and M2 carbines, a .38 caliber pistol and two .22 caliber rifles. [102]

FBI Reaction

Special Agent Shanahan told the Task Force it was standard practice for klansmen to own weapons, and that Rowe's weapons did not interest the Bureau. [103]

100. Report of Rowe to SA Blake, Aug. 17, 1964; BH 1457-352-5086; Task Force 3099-3100.

101. Memorandum from SA Shanahan to BH SAC, Nov. 19, 1964; BH 157-852-10; Task Force 3372.

102. Id.

103. Neil P. Shanahan Interview by Task Force, Mar. 7, 1979, 80.

J. The Flame Club Incident

On September 26, 1964, Rowe reported that he and several other Eastview 13 Klavern members drove over to the Bessemer Klavern to discuss what they should do about an integrated nightclub, named the Flame Club.[104] Rowe, Eugene Thomas, and another klansmen then drove to the club, and found blacks and whites sitting and dancing together. They left, and Thomas called a Lieutenant Barnes of the Bessemer Police, who obliged Thomas with dynamite, a submachine gun, and hand grenades "to remedy" the Flame Club situation, according to Rowe's informant report.[105] The men joined other klansmen and returned to the Flame Club only to find several Fairfield Police cars parked in front of the club. The klan thus abandoned the plan Gene Thomas had devised to explode dynamite at the rear of the club and to fire at fleeing patrons with automatic weapons.[106]

Later, the plan was revived, apparently by Robert Thomas, only to be dropped at the order of Robert Shelton, Imperial Wizard.[107]

While Rowe informed the Bureau on September 26, 1964, that the klan was planning to "investigate" integration at

104. Report of Rowe to SA Shanahan, Sept. 26-Oct. 2, 1964; BH 157-842-22; Task Force 3217.

105. Id.

106. Id., 3217-18.

107. Id., 3218.

the Flame Club, [108] he apparently neglected to mention the first or second trip to the club until September 27 or 28, 1964, a day or two after both trips had occurred. [109] The Fairfield Police happened on the Flame Club by coincidence only; they were apparently arresting several blacks for unrelated matters. [110]

FBI Reaction

After the FBI received its first report from Rowe that the klan had attempted to attack the Flame Club, the Birmingham office spoke with the Fairfield Police and notified unstated "appropriate law enforcement agencies." [111] Also, Headquarters advised Birmingham to inform the owner of the Flame Club, [112] which was done on October 1, 1964. [113] On September 30, 1964, Robert Thomas told Rowe that Shelton had called off any planned violence at the Flame Club. [114]

108. Report of Rowe to SA Shanahan, Sept. 26, 1964;
BH 105-653-100; Task Force 3170.

109. Memorandum from BH SAC to Director, Dec. 17, 1964;
HQ 137-6295-29; Task Force 3466.

110. FBI Letterhead Memorandum, Sept. 29, 1964; BH 157-843-3; Task Force 3191.

111. Airtel from BH SAC to Director, Sept. 29, 1964;
BH 105-655-426; Task Force 3189.

112. Teletype from Director to BH SAC, Sept. 30, 1964;
BH 157-842-7; Task Force 3203.

113. Teletype from BH SAC to Director, Oct. 1, 1964;
HQ 157-2045-3; Task Force 3208.

114. Teletype from BH SAC to Director, Oct. 1, 1964;
HQ 157-2045-8; Task Force 3210.

The Task Force noted the absence of any record in Bureau files in which any FBI official: (1) asked Rowe why he was chosen for the task of attacking the Flame Club; (2) asked why he apparently did not report the incident until at least one day after both trips to the Flame Club on September 26, 1964.

K. The Klokkan Committee

On December 10, 1964, Rowe was elected as Klokkan Chief for Eastview 13.[115] The Klokkan Committee generally was charged with investigating new klan members and protecting klan security.[116] However, shortly after Rowe's selection the Bureau learned that the committee had other duties. On December 22, 1964, Huey Lipscomb advised Agents Shanahan and Murphy that in 1963 the Eastview 13 Klokkan Committee was composed of Eugene Reeves, Earl Thompson and Rowe.[117] Lipscomb reported that during that period "any violence which came from Eastview Klavern 13 would have to be okayed by all three of these individuals" including, of course, Rowe [emphasis added].[118]

115. Report of Rowe to SA Shanahan, Dec. 18, 1964; BH 105-655-445; Task Force 3472.

116. Shanahan Interview by Task Force, supra n. 103 at 101. Deposition of Rowe, Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Oct. 17, 1975, 16.

117. Report of Lipscomb to SA Shanahan and SA Murphy, Dec. 22, 1964; BH 157-241-1214; Task Force 3476.

118. Id.

FBI Reaction

Lipscomb's report was apparently not put into Rowe's file. However, Shanahan, Rowe's handling agent, was aware of the report since Lipscomb told him about it. The Bureau file does not indicate that anyone: (1) asked Rowe if the Klokan Committee approved all Eastview violence in 1964 as well as 1963; (2) cautioned Rowe not to approve or take part in violence in his capacity as Klokan Chief; (3) told Rowe to resign from his position as Klokan Chief; (4) told Headquarters about Rowe's elevation to Klokan Chief; or (5) found out whether Rowe was complying with the Director's order that he not direct or instigate violence.[119]

The Task Force questioned Agent Shanahan about this report. Shanahan concluded that the report was merely Lipscomb's "analysis of the situation." [120] He admitted that Lipscomb's statement about Rowe's approval role in violence would not have gotten him "too excited," [121] and did not affect his attitude about Rowe. [122] Moreover, Shanahan stated that this was not the kind of information that had to be communicated to Headquarters [123] Shanahan admitted that he would not have

119. Memorandum from Director to BH SAC, supra n. 38 at 2661.

120. Shanahan Interview by Task Force, supra n. 103 at 109.

121. Id.

122. Id., 110.

123. Id., 110-11.

even asked Rowe about it. "It wouldn't have been important to me at all." [124]

124. Id., 112.

IX. ROWE AND EASTVIEW 13 INFORMANT "HUEY LIPSCOMB"

The Task Force attempted to place the FBI's handling of Gary Thomas Rowe in perspective by examining how the Bureau handled several other klan informants. One of these individuals shall be referred to as "Huey Lipscomb". From 1963 to 1965, the FBI paid him to inform on the activities of fellow klansmen. By focusing on Rowe and Lipscomb, however, we are not suggesting that they are representative of the informants the FBI had developed in the Alabama Ku Klux Klan at this time. Most of the informant files we examined indicate that the informants themselves did not take part in violent or illegal activities.

A. Lipscomb's Background

Before engaging Lipscomb, then 37 years old, as an informant, the FBI examined his criminal record and discovered that he had been arrested at least eleven times, all prior to his twenty-eighth birthday. [1]

In 1943, he was arrested for burglary and larceny, given a suspended sentence and fined \$50. Three years later, he was charged with grand larceny, but released the day after his arrest. In 1947, he was again arrested and charged with burglary and grand larceny and put on probation for three years. Shortly before his probation expired, he was arrested for theft of goods from interstate commerce, and put on five years probation. Finally, in 1954, he was charged with

1. Report of SA Neil P. Shanahan, Sept. 30, 1965; BH 157-356-190; Task Force 4272.

assault with intent to murder. The FBI files do not indicate the disposition of the case.

In December 1961, the FBI first learned that Lipscomb, still two years from being an informant, planned to participate in racial violence when Rowe reported that a group of klansmen, including Lipscomb, were plotting to destroy a desegregated Holiday Inn in Knoxville, Tennessee. Fortunately, city officials were alerted, and the plan was aborted.[2] In 1962, Rowe reported that the klan planned to attack blacks who were accompanying civil rights leader, Fred L. Shuttlesworth, to the Dobbs House Restaurant in Birmingham. Rowe informed his handling agent that the klan conspired to encircle Shuttlesworth at the restaurant, as if to beat him up, whereupon Lipscomb was to move forward and stab him to death.

In Rowe's view, Lipscomb was both willing and able to kill Shuttlesworth. [3] Special Agent Murphy, who later became Lipscomb's handling agent, today also believes Lipscomb was capable of killing, but only if "he had to prove himself" to his klan friends.[4] The FBI warned Rev. Shuttlesworth not to go near the Dobbs House.

2. Report of SA John McCormack, Nov. 14, 1963: HQ 157-1131-1; Task Force 2136.

3. Teletype from BH SAC to Director, July 20, 1962; BH 100-3080-1505; Task Force 1020. See Chapter VI, n. 16.

4. Robert Murphy Interview by Task Force, Mar. 8, 1979, Vol. I at 38-39.

On May 11, 1963, the A. G. Gaston Motel in Birmingham was bombed, and downtown department store windows were broken by klansmen who were upset at the stores for deciding to allow blacks to work there. On May 25, 1963, FBI agents interviewed Lipscomb. He denied any wrongdoing[5], but Special Agent Byron McFall refused to believe him. Three weeks later, McFall reported in a memorandum to the SAC:

It seems entirely logical that [Lipscomb] may have had something to do with breaking the windows in the Parisian Department Store, and that he might even have some connection with the [Gaston Motel] bombing.[6]

On September 13, 1963, the Birmingham office opened a "157" [racial matters] file on Lipscomb, when they identified him as a suspect in the bombing of Arthur D. Shores' home on September 4, 1963.[7] After the 16th Street Baptist Church was bombed, eleven days later, FBI agents again interviewed him. Again, Lipscomb denied any involvement in the church bombing [8], and said he had no information on the matter. He also denied ever owning dynamite.

B. Lipscomb's Development as an Informant

The FBI office opened Lipscomb as a potential informant for racial matters (PCI) on September 19, 1963 [9], when agents

5. Report of Lipscomb to SA J. Freeman Tanner and SA Howard C. Kennedy, May 25, 1963; BH 157-241-978; Task Force 1209.
6. Memorandum from SA Byron McFall to BH SAC, June 13, 1963; BH 157-241-1008; Task Force 1254-55.
7. Memorandum from SA McFall to BH SAC, Sept. 13, 1963; BH 157-356-1; Task Force 1326.
8. Report of Lipscomb to SA McCormack and SA Charles R. Hennick, Sept. 15, 1963; BH 157-352-223; Task Force 1359.
9. Memorandum from SA McCormack and SA Joseph M. Zimmerman to BH SAC, Dec. 2, 1963; BH 157-352-3845; Task Force 2208.

decided that he might be willing to provide information in the church bombing case.[10]

Agents McCormack and Zimmerman re-interviewed Lipscomb on September 25, 1963.[11] He told them that he was at a local klan hangout on September 4, 1963, when he heard that Arthur Shores' home had been bombed. He then drove to Robert Chambliss' home and removed dynamite from the trunk of Chambliss' car. Lipscomb and klansman Charles Cagle put the dynamite in Lipscomb's car and brought it to a field near a dirt road in Mount Olive, Alabama. Several days later, Lipscomb learned that the dynamite was missing. While denying that he knew how to make a bomb, Lipscomb admitted that this dynamite "could have possibly been used in the bombing of the 16th Street Baptist Church".[12]

At about this time, the FBI examined Lipscomb with a polygraph and concluded that he:

was attempting deception and ... has knowledge of the bombing of the 16th Street Baptist Church and may have participated in some way in the bombing or the planning thereof.[13]

A week later, on October 5, 1963, SAC Raymond L. Faisst reported to the Director that the office considered

10. Memorandum from SA McCormack to BH SAC, Sept. 17, 1963; BH 157-356-4; Task Force 1407.
11. Report of Lipscomb to SA McCormack and SA Zimmerman, Sept. 25, 1963; BH 157-1025-353; Task Force 1536.
12. Id., 1537-40.
13. Airtel from BH SAC to Director, Sept. 29, 1963; HQ 157-352-1013; Task Force 1597.

Lipscomb a suspect in the church bombing because he had admitted transporting dynamite on September 4, 1963.[14] Between September and December 1963, Bureau agents interviewed him a total of 24 times.[15] He admitted having attacked blacks with fists and sling shots, but denied ever using dynamite.[16]

On November 16, 1963, Lipscomb received his first informant payment from the Bureau. It was a check for \$50. In the next seven months, the Bureau paid him an additional \$150[17], apparently believing that when Lipscomb accepted FBI money, "he realized full well the 'hold' agents now have on him." [18] Special Agent Murphy told the Task Force that by accepting Bureau money, he broke his klan oath and thereby ran the risk of suffering severe retaliation, including death, at the hands of other klansmen.[19]

14. Airtel from BH SAC to Director, Oct. 5, 1963; HQ 157-352-1381; Task Force 1713.
15. Memorandum from SA Murphy, Apr. 1964; BH 157-356-126; Task Force 2618.
16. Airtel from BH SAC to Director, Oct. 16, 1963; BH 157-1025-511; Task Force 1861.
17. Airtel from BH SAC to Director, June 4, 1964; HQ 170-15-32; Task Force 2756.
18. Teletype from BH SAC to Director, Nov. 23, 1963; HQ 157-1025-699; Task Force 2172.
19. Murphy Interview by Task Force, supra n. 4, Vol. II at 44-45.

C. The Bureau's Supervision of Lipscomb

The FBI recognized that Lipscomb was a church bombing suspect while working as an FBI informant. [20] Agents considered him valuable because, being violent by nature, he happened to run with violent people. "[I]f you want to catch fish, you've got to go into the water" [21], Agent Murphy told us. Accordingly, Murphy was instructed to handle Lipscomb "very cautiously and very warily". [22] The handling agent thus followed the policy of "reporting everything" about Lipscomb's violent activities [23], except "how much blood ran out of the wound". [24]

D. Lipscomb's Knowledge of the Birmingham Bombings

On October 7, 1963, Rowe reported that Lipscomb had talked about making shrapnel bombs in 1962 which "could hurt a lot of niggers". [25] This report apparently prompted agents to re-interview Lipscomb, which they did on October 16, 1963; but again he denied ever talking about making a shrapnel bomb or even knowing how to make one. [26]

20. Id., Vol. I at 4-5.

21. Id., Vol. I at 37.

22. Id., Vol I at 5.

23. Id., Vol. I at 16.

24. Id., Vol, I at 15.

25. Memorandum from SA McFall to BH SAC, Oct. 9, 1963; BH 170-9-SF-194; Task Force 1810.

26. Report of Lipscomb to SA McCormack and SA Zimmerman, Oct. 16, 1963; BH 157-352-2803; Task Force 1906.

On October 30, 1963, Rowe and Lipscomb attended an Eastview 13 meeting. Rowe reported that at the meeting, Lipscomb boasted to Robert Chambliss about how he[Lipscomb] "told you guys how to make a bomb".[27] Lipscomb also filed an informant report on the October 30th meeting, but notably failed to mention anything about telling Chambliss how to make a bomb.[28] There is no record that FBI agents ever questioned Lipscomb and Rowe to resolve these inconsistent reports.

Several days later, Rowe and Lipscomb attended another Eastview 13 meeting. According to Rowe's report, Lipscomb announced that night that "[I] told TROY INGRAM, ROBERT CHAMBLISS, and BILL HOLT how to make a shrapnel bomb"[29], in obvious reference to the type of bomb which went off at Center Street and Sixth Avenue on the night of September 25, 1963.

The Birmingham SAC reported some of Lipscomb's incriminating statements to Headquarters on February 7, 1964. [30] In his interview with the Task Force, Special Agent

27. Memorandum from SA McFall to BH SAC, Nov. 1, 1963; BH 170-9-SF-209; Task Force 2038.

28. Report of Lipscomb to SA McCormack and SA Zimmerman, Oct. 30, 1963; BH 157-352-3223; Task Force 2049-52.

29. Memorandum from SA McFall to BH SAC, Nov. 4, 1963; BH 170-9-SF-21; Task Force 2069A.

30. Report of SA Robert Womack, Feb. 7, 1964; BH 157-352-4277; Task Force 2372.

Murphy said that he then doubted that Lipscomb instructed either Chambliss or Ingram how to build bombs because both were experts, in Murphy's view, before ever meeting Lipscomb. [31] "It's like trying to say," Murphy explained, "I taught Mark Spitz how to swim." [32]

On May 7, 1964, agents re-interviewed Rowe to determine what he knew about Birmingham's 1963 bombings. [33] Rowe identified Lipscomb as one of four suspects in the August 20, 1963 bombing of the home of Arthur Shores, a prominent black attorney. [34] Rowe fingered Lipscomb as having helped build the shrapnel bomb which exploded at Center Street and Sixth Avenue on September 25, 1963. Rowe also reported that Alabama Highway Patrol Captain Ben Allen believed Lipscomb was involved in the Center Street shrapnel bombings. In his report's final section, Rowe advised the Bureau that Lipscomb had instructed another klansman named Harry Walker, just three days before the 16th Street Church bombing, how to make a bomb and had also told Eastview member Troy Ingram that he [Lipscomb] would have no difficulty making a shrapnel bomb. [35]

31. Murphy Interview by Task Force, supra n. 4, Vol. II at 39-42.

32. Id., Vol. II at 42.

33. Report of Rowe to SA John Downey and SA J. Brooke Blake, May 7, 1964; BH 157-331-87; Task Force 2677.

34. Id., 2679.

35. Id., 2681.

E. Lipscomb's Other Violent Activities

Lipscomb readily admitted to agents that he had been violent in the past, that he had beaten up and thrown acid on blacks and "knocked some heads together".[36],

We were unable to find any record in FBI files that agents advised Lipscomb not to take part in violence or that they ever considered terminating him after learning that he admitted having done violence to blacks. Of course, the FBI's primary concern at this point was to solve some of the bombings and agents were perhaps willing to overlook Lipscomb's violent behavior. Agents believed Lipscomb "undoubtedly participated in some of [Birmingham's] minor bombings"[37], and on December 2, 1963, Agents McCormack and Zimmerman reported that Lipscomb:

readily admits that while he would not perform any extreme acts of violence, he is not now adverse to 'knocking a nigger on the head'.[38]

The files give no indication that anyone in the FBI ever advised Lipscomb to stop beating blacks. Moreover, Agent Murphy, then Lipscomb's handling agent, confirmed in his Task Force interview that he failed to give such instructions. To have done so would have been futile, Murphy

36. Report of Lipscomb to SA McCormack and SA Zimmerman, Nov. 2, 1963; BH 157-352-3223; Task Force 2052.

37. Teletype from BH SAC to Director, Nov. 23, 1963; HQ 157-1025-699; Task Force 2171.

38. Memorandum from SA McCormack and SA Zimmerman to BH SAC, Dec. 2, 1963; BH 157-352-3845; Task Force 2210.

explained, because Lipscomb felt it was "a God-given right and a constitutionally-protected right at that" to knock blacks on the head. [39] Murphy maintains that had he told Lipscomb to stop "punching out" or "beating up" people, Lipscomb would have laughed at him.[40] "[It] just was not in the man's constitutional makeup to not engage in violence." [41] Nor did Murphy consider it advisable to give him such instructions[42], because Lipscomb would have risked exposing himself as an informant and getting thrown out of the klan, had he agreed not to commit violence.[43]

Lipscomb was also, at the same time, a suspect in the church bombing, and I was walking a fine line in operating him to begin with, between his constitutional rights and the constitutional rights of the other sector of the populace that he didn't quite go along with. No, I would think that to tell him not to[commit violence] would have been irrelevant. It just wasn't in the man's nature, and if he had suddenly listened to what I said, and turned tame, and wasn't the boisterous, macho, beer-swigging bully that he had been for his previous life, they would have exposed him and thrown him out of the klan immediately.[44]

The FBI was concerned enough about Lipscomb's violent tendencies to report him to the U. S. Secret Service. On April 14, 1964, Birmingham told the Service to watch him if the President of the United States should ever travel to

39. Murphy Interview by Task Force, supra n. 4, Vol. II at 49-50.

40. Id., Vol. II at 48-49.

41. Id., Vol. II at 49-50.

42. Id., Vol. II at 50.

43. Id.

44. Id.

Alabama. [45] Agent Murphy explained that this report merely reflected the FBI's recognition that Lipscomb was "a very violent man, an extremely violent man". [46]

In the spring of 1964, Lipscomb advised FBI agents that he was then willing to beat up or kill Negroes or other persons. [47] One month later, on May 14, 1964, Rowe reported he heard klansman Cecil Henson say that Lipscomb and several others apparently beat up some whites at a local movie theatre. [48] Lipscomb admitted to Rowe that he hit one person in the temple with a battery cable and coupling device. [49]

Rowe's report was placed in Lipscomb's file at the time Special Agent Robert Murphy was his handling agent, but the Task Force was unable to locate any record in FBI files indicating that agents either questioned Lipscomb about this incident or warned him about engaging in such violence.

When asked about it, Special Agent Murphy responded:

Well, I don't think I would have gotten greatly upset about it, because these people were given to boasting. The[y] were given to exaggeration, and they marked their masculinity in terms of the number of beer cans they drank, and the number of fist fights they got into. The exotic weaponry that they used and the flights of fancy in a total setting of violence [were] part of

45. Memorandum, Apr. 14, 1964; HQ 157-1131; Task Force 2612.

46. Murphy Interview by Task Force, supra n. 4, Vol. II at 56.

47. Memorandum from SA Womack to BH SAC, Apr. 10, 1964.

48. Report of Rowe to SA Blake, May 15, 1964; BH 105-653-660; Task Force 2710.

49. Id., 2710-11.

their everyday world, so it wouldn't have startled me in any way. it would have been consistent, and I think that [Lips] probably would have been boasting like hell about what a good job he did, because it was the type of thing that he discussed freely, that he loved to fight. [50]

There was nothing in Rowe's report about Lipscomb's fighting at the movie theatre that surprised Agent Murphy. [51] The agent added, however, that Bureau Headquarters was then primarily concerned with solving the church bombing case and would have considered such reports to be essentially local problems for state law enforcement authorities and not "of any great consequence" to the FBI.

Murphy's view of Headquarters' reaction was amply demonstrated when Headquarters approved his request for authority to continue payments to Lipscomb. [52] Murphy informed Washington that Lipscomb was a member of an action squad and that he:

is called upon to take part in various klan activities and in the past has participated in various acts of physical violence. [53]

In responding favorably to Murphy's request, Headquarters made no mention of Lipscomb's activities on the klan action squad. [54]

50. Murphy Interview by Task Force, supra n. 4, Vol. II at 57-58.

51. Id., Vol. II at 58-59.

52. Airtel from BH SAC to Director, June 4, 1964; HQ 170-37-4; Task Force 2815.

53. Id., 2816.

54. Airtel from Director to BH SAC, June 12, 1964; HQ 170-37-4; Task Force 2812.

Reports of Lipscomb's violent activities continued to come to the FBI in the summer of 1964. Robin Huffman reported that Rowe and Lipscomb were planning to throw rattlesnakes into black peoples' cars.[55] But SA Murphy believed that Lipscomb was just boasting, and would probably not do such things. Murphy could not recall warning Lipscomb not to engage in such rattlesnake antics. [56]

In September 1964, Birmingham attempted to convert Lipscomb from probationary to full informant status because agents considered him valuable and trustworthy[57], and because Agent Murphy thought Lipscomb's "acts of violence had come down to a stop".[58] Headquarters denied permission however, citing "informant's background and the fact that he is still possibly involved in the Bapbomb case", [59] but did authorize continued payments to Lipscomb as a probationary informant.[60]

55. Memorandum from SA Womack to BH SAC, July 10, 1964; BH 157-352-4850; Task Force 2936.

56. Murphy Interview by Task Force, supra n. 4, Vol. II at 66-67.

57. Memorandum from BH SAC to Director, Sept. 24, 1965; HQ 170-37-6; Task Force 3227.

58. Murphy Interview by Task Force, supra n. 4, Vol. II at 18.

59. Memorandum from Director to BH SAC, Oct. 2, 1964; HQ 170-37-6; Task Force 3225.

60. See Appendix pp. 16-18 for the FBI's distinction between a full informant and a probationary informant.

On January 8, 1965, the Birmingham office terminated Lipscomb. [61] Until then, he had received a total of \$420 from the FBI for his informant services. Apparently, his past violence played no role in the office's decision to terminate him as an informant. [62] He had stopped going to klan meetings, and although the Bureau tried to reactivate him in 1966, he showed no interest in solving the Birmingham bombing cases, and consequently, was of no use to the FBI. [63] He is now deceased. [64]

61. Memorandum from F.J. Baumbardner to W.C. Sullivan, Apr. 1, 1966; HQ 170-37-11; Task Force 4822.

62. Id., 4823.

63. Airtel from Director to BH SAC, Apr. 12, 1966; BH 170-15-57; Task Force 4826.

64. BH 157-356-210.

X. THE KILLING OF VIOLA LIUZZO

A. Undisputed Facts

1. Introduction

On March 25, 1965, a thirty-nine year old mother of five was killed on U. S. Highway 80 after participating in the Selma to Montgomery civil rights march that day.[1] While some of the circumstances surrounding her death are still actively in dispute, many are not. This section will outline the undisputed facts.

Viola Liuzzo arrived in Selma from Detroit, her home, on or about March 19, 1965,[2] just before a civil rights demonstration march was scheduled to leave Selma, Alabama, on March 21, and to arrive in Montgomery, Alabama, four days later. The march was intended to dramatize voter registration restrictions against black people in Alabama and to present to Governor George C. Wallace a petition of grievances. Dr. Martin Luther King, Jr., and his Southern Christian Leadership Conference led and organized the march, which arrived at the steps of the State Capitol Building in Montgomery on March 25, 1965. Twelve thousand civil rights demonstrators attended this final rally, which lasted from about 1:35 p.m. until 4:10 p.m.[3]

1. Report of SA Joseph R. Connors, Mar. 30, 1965; HQ 28601-28, CRD 144-2-470, § 5.

2. Id., 28.

3. Id., 4.

2. The Victim

When the march was over, Mrs. Liuzzo, accompanied by one of the SCLC volunteers, a nineteen year old black from Selma, Alabama, named Leroy Moton, offered to return several marchers to Selma and the Montgomery airport. They climbed into her 1963 powderblue Oldsmobile, drove directly to Dannelly Airport, where they dropped off one passenger, bought some gasoline, and travelled west to Selma where Moton and she dropped off four other passengers. The two then departed from Selma around 7:35 p.m., heading east toward Montgomery. Mrs. Liuzzo was driving. A half hour or so later, Mrs. Liuzzo was shot dead when Eugene Thomas' car passed hers on the left-hand side. Shots were fired into her car, and she was killed instantly.[4]

3. The Suspects' Activities

On the morning of March 25, Tommy Rowe met Bessemer Klavern members Eugene Thomas, Collie Leroy Wilkins, and William O. Eaton in Bessemer. Rowe had known all three from previous klan activities: Thomas for about five years, Wilkins for about two, and Eaton for a year or so.[5] Rowe had travelled with Eugene Thomas on several klan outings to Georgia and Florida when they both worked as guards for Imperial Wizard, Robert M. Shelton.[6] Rowe also had

4. Id., 44-45.

5. U.S. v. Eaton, et al., No. 11,736-N, M.D. Ala., 1965, 228, (Gary T. Rowe Testimony) [Hereinafter Trial 3].

6. Id., 271-72.

taken part, to a lesser extent, in various klan activities with Wilkins and Eaton. FBI records show that Rowe travelled with Wilkins and Thomas to Jacksonville, Florida, on November 21, 1964.[7]

Rowe telephoned his handling agent, S.A. Neil Shanahan before heading over to Thomas' house on March 25, 1965. Shanahan told Rowe to go along to Montgomery, but to call him when he returned.[8] Almost immediately, Shanahan let FBI Headquarters and its Selma office know that Thomas and other klansmen had left Bessemer on route to Montgomery.[9]

In mid-morning of March 25, the four klansmen arrived in Montgomery, Alabama. Thomas parked his car and the four walked over to an American service station, located on Hull and Dexter, several blocks from the State Capitol.[10]

In mid-afternoon, the four men drove over to a restaurant called Jack's Beverages, near the main gate of Maxwell Air Force Base, where they had lunch and a few beers.[11] After staying there for around an hour, they drove toward Selma.[12]

7. Id.; Report of Fulton Roebuck, Nov. 25, 1964; 170-19A-209; Task Force 3890.
8. Trial 3, supra n. 5 at 150-51 (Neil P. Shanahan Testimony).
9. Teletype to HQ, Mar. 25, 1965; BH 157-920-53.
10. Trial 3, supra n. 5 at 243, 314 (Rowe Testimony).
11. Report of Rowe to SA Shanahan, Mar. 26, 1965; BH 170-9-377; Task Force 3728-57. Trial 3, supra n. 5 at 248 (Rowe Testimony).
12. Trial 3, supra n. 5 at 248 (Rowe Testimony).

At about 6:20 p.m., an Alabama State Trooper, named James Hagood,[13] stopped Thomas' car and gave Thomas a warning ticket for a defective muffler.[14] The four then travelled on to Selma and arrived there around 7:00 p.m.

Thomas stopped at Selma's Silver Moon Cafe. The four men each had a beer and left about forty-five minutes later.[15] They got back into Thomas' car, and cruised around Selma for several minutes, attempting to get near the A.M.E. Church, a central organizing spot for the demonstrators. But a large crowd there prevented them from getting close,[16] so they drove on several blocks and pulled up to a red light at the corner of Dallas and Broad Streets. To their left was a blue Oldsmobile, with a middle-aged woman, Viola Liuzzo, at the wheel and a black passenger to her right. The four followed Mrs. Liuzzo for three blocks until they reached the Edmund Pettus Bridge which crosses the Alabama River.[17]

13. State v. Wilkins, No. 155, Circuit Court of Lowndes County, Alabama, May 3, 1965, 296 (State Trooper James D. Hagood Testimony) [Hereinafter Trial 1].
14. Trial 3, supra n. 5 at 251 (Rowe Testimony), 638 (Hagood Testimony).
15. State v. Wilkins, No. 155, Circuit Court of Lowndes County, Alabama, Oct. 18, 1965, 482-84 (Rowe Testimony) [Hereinafter Trial 2].
16. Report of Rowe to SA James L. McGovern, SA Melton Alexander, SA John Downey, and SA Neil Shanahan, Mar. 26, 1965; BH 170-9-379, Task Force 3728-63.
17. Trial 3, supra n. 5 at 257-59 (Rowe Testimony). Report of SA Connors, supra n. 1 at 103, Task Force 3833.

After crossing the bridge, the Thomas car followed the Liuzzo car along Highway 80 for 25.5 miles.[18] At certain points Thomas accelerated his car to speeds of 100 miles per hour.[19] At approximately 8:00 p.m., as Thomas' car was passing on the left, one of the passengers picked up a .38 caliber gun, fired several shots at the Liuzzo car, hitting Mrs. Liuzzo in the neck, severing her spinal cord, and killing her instantly.[20]

After the shooting, Thomas and the others returned to Bessemer, Alabama, by way of Montgomery, stopping on the way at a service station. [21] When they reached Bessemer, they stopped at the VFW Club on the Bessemer Superhighway [22] for fifteen minutes to have a beer, [23] then proceeded on to Lorene's Cafe, a mile or two from the VFW Club, where they stayed about twenty minutes and ordered another round of beers.[24] The four then returned to Eugene Thomas' house at about 11:00 p.m. and separated.[25]

18. Report of SA Connors, supra n. 1, Task Force 3728-93.

19. Trial 3, supra n. 5 at 260 (Rowe Testimony).

20. Report of SA Connors, supra n. 1 at 1, Task Force 3728-77.

21. Trial 3, supra n. 5 at 337 (Rowe Testimony).

22. Rowe to Shanahan, supra n. 11 at 3728-59.

23. Trial 3, supra n. 5 at 340-42 (Rowe Testimony).

24. Id., 343.

25. Rowe to Shanahan, supra n. 11 at 3728-59.

Rowe drove his car to Birmingham's Central Park, stopped at a pay phone, and called the Birmingham FBI office.[26] At about 11:20 p.m., Special Agent Shanahan received a call from his office, asking him to call Rowe immediately.[27] Rowe told him that he had information about a shooting attempt. Shanahan and Rowe agreed to meet at the West End Baptist Hospital parking lot.[28] There they talked for a couple of hours in Shanahan's car.[29] Rowe got home between 2:00 and 3:00 in the morning of March 26.[30]

4. The Aftermath

At 1:00 a.m. on the 26th, President Johnson heard about the shooting, and telephoned the FBI Headquarters to learn the details. Sixteen minutes later, the President called again and instructed the FBI to "do everything possible around the clock until we find the perpetrators of this heinous crime." The President asked to be kept advised of any significant developments. FBI Special Agent Harold C. Swanson replied that the Bureau was already doing everything humanly possible to break the case.[31]

26. Trial 3, supra n. 5 at 270 (Rowe Testimony).

27. Trial 3, supra n. 5 at 128 (Shanahan Testimony).

28. Id., 138-39.

29. Id., 140, 143.

30. Trial 3, supra n. 5 at 348 (Rowe Testimony).

31. Memorandum from Alex Rosen to Alan Belmont, Mar. 26, 1965; HQ 44-28601-156; Task Force 3714.

During the early morning hours of March 26, President Johnson spoke with Director Hoover. Hoover reported the facts as he knew them and cautioned the President "that there must be nothing said by him or anyone else about the nearness of breaking the case." [32]

At 9:32 a.m., the Director telephoned Attorney General Nicholas de B. Katzenbach to say that the FBI had "practically broken the Liuzzo case." Hoover explained that an FBI informant was in the car from which the fatal shots were fired and had already identified the killers. Several minutes later, Hoover told the Attorney General that the President wanted them to come to the White House immediately after the suspects were arrested so that he could announce the arrests that afternoon on a previously scheduled television appearance. [33]

At 12:06 p.m., Headquarters authorized the Birmingham field office to arrest Wilkins, Thomas, Eaton, and Rowe. At 12:07 p.m., E.S.T., FBI agents stopped and arrested Wilkins in his car on Highway 11, heading toward Tuscaloosa. Thomas was arrested just one minute later at Lorene's Cafe. Eaton was arrested at 12:16 p.m. at his home in Bessemer. [34]

Only twenty-four minutes after Eaton's arrest, President Johnson, with Director Hoover at his side, announced on

32. Memorandum from J. Edgar Hoover to Clyde Tolson, et al., Mar. 26, 1965; HQ 44-28601-16; Task Force 3680.

33. Id., 3680-81.

34. Teletype from BH SAC to Director, Mar. 26, 1965; HQ 44-28601-9; Task Force 3684.

national television that the FBI had arrested Thomas, Eaton, Rowe, and Wilkins and had charged them with the federal crime of conspiring to violate Mrs. Liuzzo's civil rights.

Within two hours of the President's announcement, Thomas, Wilkins, and Eaton were arraigned in Birmingham before United States Commissioner Louise Charlton, and charged with violating 18 USC §241 "through a conspiracy to intimidate and injure citizens in the free exercise of their constitutional rights." Commissioner Charlton set bond for each at \$50,000. [35] Rowe also was brought before Commissioner Charlton later that day.

Around 6:00 a.m. on March 26, Special Agent Shanahan picked up Rowe at his apartment and brought him to the Birmingham office. [36] There, Shanahan, along with agents Melton Alexander and John Downey [37] and Inspector James McGovern, who had recently arrived in Birmingham to investigate a new bombing case, interviewed him. [38] McGovern was immediately put in charge of directing the Liuzzo investigation and reviewing all field office communications on it. [39]

The interview lasted about an hour and a half. [40] Agents Shanahan, Downey, and Alexander then took Rowe back

35. BH SAC Teletype to Director, Mar. 26, 1965; HQ 44-1236-11; Task Force 3658-59.

36. Neil P. Shanahan Interview by Task Force, Feb. 27, 1979, 129.

37. Id., 129-30.

38. James L. McGovern Interview by Task Force, Feb. 22, 1979, 36.

39. Id., 40-41.

40. Id., 43.

to Montgomery and Selma and Rowe along with Agents Browning and Riley retraced the route Thomas followed the previous day. [41] The agents bought Rowe a rainhat to make sure nobody spotted Rowe in an FBI car. [42]

When they returned to Birmingham, the agents learned that an arrest warrant had been issued against Rowe and told him so when he was still in the car. [43] "I'm going to act like I'm a mean, tough sonofabitch, and you understand what I'm doing," Rowe said, immediately realizing that he would have to appear to be resisting arrest in order to keep his cover. [44] "He was pushing, shoving, and cussing," Alexander observed. "At the time, I thought we had the meanest, roughneck klansmen in the world." [45]

After his arraignment before Commissioner Charlton at 5:25 p.m., Rowe was kept in jail [46] for several hours. At 9:18 p.m. on March 26, Rowe, Eaton, and Thomas were released from Jefferson County Jail in Birmingham. Klan attorney Matt Murphy posted the bond at \$50,000 each. Wilkins was not released because he had been served with an

41. Melton Alexander Interview by Task Force, Mar. 1, 1979, 68-71. BH SAC to Director, supra n. 35, Task Force 3656.

42. Alexander Interview by Task Force, supra n. 41 at 69.

43. Id., 71.

44. Id., 72.

45. Id.

46. BH SAC to Director, supra n. 35 at 3659.

outstanding warrant for violating probation. [47] Rowe then accompanied Matt Murphy to his law office[48] and there met klansmen Robert Creel, Robert Thomas, Robert Shelton, Eugene Thomas, [49] Eugene Reeves, William O. Eaton, and Ralph Roton. [50] Rowe was able to persuade those present that he had told nothing to the FBI, [51] although they previously strongly suspected that he was responsible for turning in Thomas, Eaton, and Wilkins. [52] When the meeting was over, klan investigator Eugene Reeves followed Rowe home. Rowe noticed him, turned, and brandished his shotgun. Reeves left without bothering him further. [53]

On April 5 and 6, 1965, a federal grand jury was convened to hear evidence relating to the death of Viola Liuzzo. Rowe, Shanahan, and Leroy Moton testified. [54] On April 6, 1965, William O. Eaton, Collie Leroy Wilkins, Jr., and Eugene Thomas were indicted and charged with violating 18 USC § 241, for "conspiring to injure, oppress, threaten, and intimidate citizens in the free exercise and enjoyment of rights and privileges secured to them by the United States

47. Teletype from BH SAC to Director, Mar. 26, 1965; HQ 44-1236-12; Task Force 3674.

48. Trial 3, supra n. 5 at 362 (Rowe Testimony).

49. Trial 1, supra n. 13 at 290 (Rowe Testimony).

50. Trial 2, supra n. 15 at 614-16 (Rowe Testimony).

51. Id., 631-32.

52. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. I at 236-38.

53. Id., Vol. I at 241.

54. In Re Grand Jury Proceedings, CRD 144-2-470 § 6.

Constitution and the laws of the United States." [55] An indictment was not returned against Rowe.

On April 20, 1965, Rowe was called before a Lowndes County, Alabama grand jury. [56] Several days later, Collie Leroy Wilkins, Jr., was indicted and charged with murdering Viola Liuzzo. [57] Between May 3 and 6, 1965, a Lowndes County jury heard evidence against Wilkins on these charges. On May 7, 1965, the jury became deadlocked and Judge T. Werth Thaggard declared a mistrial. [58] When last polled, the jurors voted ten to two for conviction.

Five and one half months later, Wilkins was retried on first degree murder charges in Hayneville, Alabama. On October 22, 1965, the jury returned a verdict of not guilty. Again, Rowe testified against Wilkins. [59]

On November 5, 1965, Wilkins, Eaton, and Thomas entered pleas of not guilty to the April 6 indictment on federal civil rights charges. [60] After a trial, in which Rowe

55. U.S. v. Eaton, et al., No. 23289, 5th Cir., Record on Appeal 2.

56. Teletype from MO SAC to Director, Apr. 20, 1965; HQ 44-28601-227; Task Force 2907.

57. Trial 1, supra n. 13 at 18.

58. Id., 454-55.

59. FBI Letterhead Memorandum, Jan. 29, 1968; HQ 44-1236-892; Task Force 5002.

60. U.S. v Eaton, et al., No. 23289, 5th Cir., Record 7-10.

testified at length, a federal jury returned a guilty verdict against all three individuals. [61] As soon as the verdict was announced, United States District Court Judge Frank M. Johnson, Jr., stated in court: [62]

All right, gentlemen, if it is worth anything to you, in my opinion, that was the only verdict that you could possibly reach in this case and still reach a fair and honest and just verdict.

Before sentencing them, Judge Johnson asked the defendants if they had anything to say. Eaton and Wilkins both claimed they were innocent of the civil rights charge. Thomas said nothing. [63] Judge Johnson gave each ten year sentences, to be served in federal prisons. [64]

On September 26 and 27, 1966, Eugene Thomas was tried on first degree murder charges in Hayneville. On September 27, a jury composed of eight blacks and four whites returned a verdict of not guilty. Neither Rowe nor Leroy Moton testified. [65]

William O. Eaton died on March 9, 1966, and the Fifth Circuit Court of Appeals dismissed his appeal of his federal conviction as moot on March 18, 1966. On April 27, 1967, that court affirmed the Wilkins and Thomas convictions. [66]

61. U.S. v. Eaton, supra n. 60, Record on Appeal 121.

62. Id.

63. Id., 55-57.

64. Id.

65. Memorandum of R. H. Jevons to Conrad, Sept. 29, 1966; HQ 44-28601-757; Task Force 4893-94.

66. Wilkins v. U.S., 376 F.2d 552 (5th Cir. 1967).

The Fifth Circuit refused to rehear en banc by order dated June 22, 1967. [67]

The Fifth Circuit rejected appellants' argument that the evidence was insufficient to support a guilty verdict. It held "that the evidence was more than ample to sustain the convictions." [68] While the court noted that Wilkins and Thomas were not on trial for shooting Mrs. Liuzzo, their actions in connection with her death "were highly relevant as to the presence or absence of guilty intent," [69] to violate Mrs. Liuzzo's civil rights.

On November 13, 1967, the United States Supreme Court denied Wilkins and Thomas' Writ of Certiorari. [70] On November 28, 1967, Thomas went to federal prison in Atlanta, and on December 2, Wilkins went to Terre Haute, Indiana. [71]

On December 5, 1969, Thomas filed a motion with the district court for reduction of sentence. The motion made no mention as to who fired the shots which killed Viola Liuzzo. It was denied the day it was filed. Neither Wilkins nor Thomas ever filed any motions in federal court relating to who killed Viola Liuzzo. Prior to the summer of 1978, neither publicly claimed that Gary Thomas Rowe fired the shots which killed Viola Liuzzo.

67. Id.

68. 376 F.2d, supra at 563.

69. Id.

70. 389 U.S. 964 (1967).

71. Docket Sheet, U.S. v. Eaton (No. 11, 736-N, M.D. Ala).

There were no further judicial proceedings involving Mrs. Liuzzo's killing until September 20, 1978. On that date, a grand jury in Lowndes County indicted Gary Thomas Rowe for the first degree murder of Viola Liuzzo, [72] This charge was still pending when this report was issued.

72. Indictment, State v. Rowe, Cir. Court of Lowndes County, Alabama.

B. Accounts of Gary Thomas Rowe

From March 25, 1965, to the present, Gary Thomas Rowe has testified, or recounted, his version of the shooting of Viola Liuzzo eleven times which we know about. The Task Force has examined all eleven accounts. This section of the report attempts to identify the consistencies and inconsistencies which become apparent after comparing one version with another. Here, we will not examine the adequacy of the FBI's investigation or of the Department's prosecution of Wilkins, Thomas, and Eaton. Nor will we compare Rowe's accounts to those of Wilkins and Thomas concerning the events of March 25, 1965.

Rowe's eleven accounts of the shooting of Mrs. Liuzzo are as follows:

1) Interview of Gary Thomas Rowe by Special Agent Neil P. Shanahan on March 25-26, 1965, dated March 29, 1965; FBI BH File 170-9-377; Task Force 3728-57 [Hereinafter 1965 Shanahan Interview].

2) Interview of Gary Thomas Rowe by Special Agents James L. McGovern, Neil P. Shanahan, John T. Downey, and Melton L. Alexander on March 26, 1965, dated March 26, 1965; FBI BH File 170-9-379; Task Force 3728-61 [Hereinafter 1965 McGovern Interview].

3) Interview of Gary Thomas Rowe by Special Agents Archibald L. Riley and Clifton Browning, Jr., March 26, 1965, dated March 29, 1965; FBI HQ File 44-28601-295, at 152; Task Force 3833 [Hereinafter Riley Interview].

4) Notes of Interview of Gary Thomas Rowe by Civil Rights Division Attorney St. John Barrett, March 31, 1965 [Hereinafter Barrett Interview].

5) Testimony of Gary Thomas Rowe before a federal grand jury in Montgomery on April 5 and 6, 1965; CRD File 144-2-470, § 6.

6) Testimony of Gary Thomas Rowe in State v. Wilkins, No. 155, Circuit Court of Lowndes County, Alabama, in May 1965; CRD File 144-2-470, § 7 [Hereinafter Trial 1].

7) Testimony of Gary Thomas Rowe in State v. Wilkins, No. 155, Circuit Court of Lowndes County, Alabama, in October 1965, CRD File 144-2-470, § 5 [Hereinafter Trial 2].

8) Testimony of Gary Thomas Rowe in United States v. Eaton, et al, No. 11736-N, M.D. Ala., November 29 - December 3, 1965, CRD File 144-2-470, § 10 [Hereinafter Trial 3].

9) G.T. Rowe, Jr., My Undercover Years With the Ku Klux Klan, (1976) [Hereinafter My Undercover Years].

10) Deposition of Gary Thomas Rowe, Jr., Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, October 17, 1975 [Hereinafter Senate Select].

11) Interview of Gary Thomas Rowe by the Task Force, February 20 and 21, 1979 [Hereinafter Task Force Interview].

THE START OF THE TRIP

Before 1975, Rowe consistently gave this account as to how his trip to Montgomery came about. On March 24, 1965, Rowe received a telephone call from Robert Thomas, his superior in the klan. Thomas, then Grand Titan, and head of six or eight Alabama klaverns, told Rowe not to go to Montgomery the next day. [1]

The next morning Eugene Thomas telephoned around 7:00 a.m. [2], 7:20 a.m. [3], or approximately 8:00 a.m. [4] and told him to get ready to go to Montgomery that morning. [5] Minutes later, Rowe received a telephone call from Robert Thomas, rescinding his instructions of the 24th and advising Rowe to travel with Eugene Thomas to Montgomery. [6] When Rowe asked why Robert Thomas had changed his mind from the night before, Robert Thomas told Rowe to follow orders, giving the impression that they were those of Imperial Wizard Robert Shelton. [7]

1. Barrett Interview, 11. Trial 3 at 236-37. Unless otherwise noted, each future citation to trial testimony is that of Rowe.
2. Trial 2 at 480, 534. Trial 3 at 235.
3. Trial 1 at 250.
4. Barrett Interview, 2.
5. Barrett Interview, 2. Trial 2 at 535. Trial 3 at 235. My Undercover Years, 165.
6. Barrett Interview, 2. Trial 2 at 535. Trial 3 at 239.
7. Trial 3 at 239.

After Rowe talked to Robert Thomas, he spoke with his handling agent, Neil P. Shanahan. [8] At about 8:50, Shanahan called Rowe to give permission to go along. [9]

Rowe left his home around 8:50 a.m. [10] to meet Gene Thomas at the Bessemer klavern hall and then followed him to Thomas' house. Rowe left his car there [11], and climbed into Thomas' 1962 red and cream colored Chevrolet [12], in the rear seat behind Thomas who was driving. Wilkins, Eaton, Rowe, and Thomas departed from Thomas' house in Bessemer shortly after 9:00 a.m. [13], with Wilkins according to what Rowe told Justice Department attorney St. John Barrett, in the right front and Eaton in the right rear. [14] This conflicts with Rowe's testimony at the federal civil rights trial where Rowe testified that Wilkins sat in the rear right seat during the entire trip in Thomas' car on March 25, 1965. [15]

8. Trial 1 at 214. Trial 2 at 536. Trial 3 at 133, 150 (Shanahan Testimony). Trial 3 at 240. Also see, Barrett Interview, 2.
9. Trial 2 at 537. Trial 3 at 136, 150-51 (Shanahan Testimony). Trial 3 at 241. My Undercover Years, 165.
10. 1965 McGovern Interview, 1. Trial 2 at 479.
11. 1965 Shanahan Interview, 1. 1965 McGovern Interview, 1. Trial 2 at 537. Trial 3 at 241-42, 310. My Undercover Years, 165.
12. 1965 Shanahan Interview, 1. 1965 McGovern Interview, 1. Barrett Interview, 2. Trial 1, at 212. Trial 2 at 481, 539. Trial 3 at 242, 309. My Undercover Years, 165.
13. 1965 Shanahan Interview, 1. Barrett Interview, 2. Trial 2 at 479, 538, 540.
14. Barrett Interview, 2.
15. Trial 3 at 319.

In 1975, Rowe's story changed. Robert Thomas called Rowe in the early morning of March 25, 1965, to say that the day was going to be Rowe's "big day with the klan . . . [he] had been elected to do the greatest deed of [his] life for the Klan." [16] Special Agent Shanahan then warned him to be careful because the trip "sounds really big." [17] Later, klansman Robert Creel called Rowe at home to ask why he was late and to say that the day was going to be Rowe's "big day with us. I'm placing my life on you today. Get up here." [18]

Rowe's version changed again when the Task Force interviewed him in February 1979. He told us that in the early morning of March 25, 1965, Robert Thomas called Rowe, asked him what shift he worked, and told him to go to Bessemer to meet Robert Creel. After Rowe checked with Agent Shanahan, Robert Thomas called again to tell Rowe to forget the trip, and Rowe contacted Shanahan to say he was staying in Birmingham. Creel then called Rowe to ask why he had not gone to Bessemer. When Rowe told him that Robert Thomas had cancelled their trip, Creel hung up [19], and called back shortly to tell Rowe that "this is going to be one of the greatest things of your life for the klan." [20] Rowe then spoke with Shanahan for the

16. Senate Select, 32.

17. Id., 33.

18. Id.

19. Task Force Interview, Vol. I at 120-23.

20. Id., Vol. I at 123.

third time that day to tell Shanahan he was going to Montgomery after all. Shanahan stated that "it sounds pretty big".

[21] Rowe went to Bessemer, but not to Gene Thomas' house.

"I don't even know where Gene Thomas lives," Rowe told us.

[22] Rowe previously testified to having visited Thomas' house both prior to and on March 25, 1965. [23]

We asked Rowe about these inconsistencies. Rowe admitted that he may have talked with Gene Thomas over the telephone that day. [24] He was certain, however, that Robert Thomas and not Gene, called him first on March 25th. [25]

Special Agent Shanahan's recollection parallels Rowe's pre-1975 accounts. He does not recall speaking with Rowe three times, on March 25th [26], and does not remember Rowe attaching special significance to the trip (i.e., one of the greatest things of Rowe's life for the klan). [27] The Task Force did not find any record in FBI files or elsewhere, that someone told Rowe that the Montgomery trip would be significant.

Both Robert Thomas and his wife, Mildred, told the Task Force that Robert Thomas did not instruct Rowe to go to

21. Id., Vol. I at 124.

22. Id., Vol. I at 124-26.

23. Trial 3 at 311.

24. Task Force Interview, Vol. II at 132, 149.

25. Id., Vol. II at 149.

26. Neil P. Shanahan Interview by Task Force, Feb. 27, 1979, 124-25.

27. Id., 124.

Montgomery on March 25, 1965.[28] Rather, Mildred Thomas insisted that Rowe called her husband three times the morning of March 25th to ask him to go along to Montgomery. Each time, Mildred Thomas remembers she or her husband saying he did not want to go.[29] Interestingly, both Mildred and Robert Thomas testified at the first murder trial[30] and Robert Thomas testified at the federal trial.[31] Neither was asked to refute Rowe's testimony that Robert Thomas ordered Rowe to Montgomery; that he telephoned Rowe that morning; and that he gave Rowe permission to go.[32] Nor does Rowe today accept the Thomas' versions of these events.[33]

MONTGOMERY

Thomas, Wilkins, Eaton and Rowe arrived in Montgomery between 10:00 a.m. and 11:00 a.m.[34] They cruised around the Capitol for a few minutes and then parked at an all-day parking lot near the Alabama State Capitol building. [35]

28. Mildred and Robert Thomas Interview by Task Force, Jan. 29, 1979, 9, 12.
29. Id., 9.
30. Trial 1 at 430 (Mildred Thomas Testimony). Trial 1 at 423-25 (Robert Thomas Testimony).
31. Trial 3 at 616-27 (Robert Thomas Testimony).
32. Trial 2 at 535-36.
33. Task Force Interview, Vol. II at 149-50.
34. 1965 McGovern Interview, 1. Barrett Interview, 3. Trial 1 at 183. Trial 2 at 481. Trial 3 at 242, 313. Task Force Interview, Vol. I at 131.
35. 1965 Shanahan Interview, 1. 1965 McGovern Interview, 1. Barrett Interview, 3. Trial 2 at 542.

Prior to 1979 Rowe claimed that he, Thomas and Eaton left their guns in Thomas' car. [36]

At a gasoline station they watched the civil rights activists march up to the steps of the Capitol building. [37] According to Rowe's federal trial testimony, the four "harassed", "booed", "hollered at" and argued with marchers and spectators. [38] This testimony conflicted with Rowe's state trial testimony in which he denied heckling, or even talking to, the demonstrators. [39] No one asked Rowe to explain this inconsistency at the federal trial. In our interview Rowe admitted that he shouted insults at the protestors, but only to convince the three klansmen that he shared their views, [40] and to keep them from suspecting he was an informant.

Rowe's 1979 account of the afternoon in Montgomery differed sharply from his previous stories. He told the Task Force that after arriving in Montgomery, Gene Thomas drove to the service station, talked to several people there, and returned to the car to tell the others that they would "set up here". [41]

36. Barrett Interview at 4. Trial 1 at 253. Trial 2 at 786 (Jessie Hodges Testimony). Trial 2 at 543, 624. Trial 3 at 243, 314. My Undercover Years, 166.

37. 1965 McGovern Interview, 1. 1965 Shanahan Interview, 1. Barrett Interview, 4. Trial 2 at 545. Trial 3 at 243, 314. My Undercover Years, 166.

38. Trial 3 at 245.

39. Trial 2 at 548.

40. Task Force Interview, Vol. I at 136-37.

41. Task Force Interview, Vol. I at 132.

Also, Rowe said he brought his gun into the service station that day, "I always had my weapon on me". [42] While watching the march, Rowe and Wilkins broke up a fistfight. [43] Finally, Gene Thomas saw a nun, and suggested assaulting her sexually.[44] We found no pre-1979 record to support this account.

JACK'S TAVERN

After departing from Montgomery, Rowe and the others drove to a bar-restaurant near Maxwell Air Force Base, called Jack's Tavern or Cafe, or Jack's Beverages for beers and something to eat. [45] In 1965 Rowe recalled Gene Thomas telling a man to "inform the 'Montgomery people' that THOMAS was in town so that if they were picked up for any reason arrangements could be made for them to be" let out on bond. [46]

THE TRAFFIC TICKET

At about 6:20 p.m., an Alabama Highway Patrol Trooper pulled Thomas over on U.S. Highway 80 between Montgomery and

42. Id., Vol. I at 133.

43. Id., Vol. I at 135.

44. Id., Vol. I at 137.

45. 1965 Shanahan Interview, 1. 1965 McGovern Interview, 2. Barrett Interview, 5. Trial 1 at 184, 256. Trial 2 at 554. Trial 3 at 247, 319. My Undercover Years, 168. Task Force Interview, Vol. I at 138.

46. 1965 McGovern Interview, 2. Also see, Barrett Interview, 5.

Selma [47], and ticketed him for a noisy muffler. Thomas showed him a Fairfield, Alabama police badge to no avail. [48] In 1965, Rowe testified that only Thomas got out of the car. [49] In 1979, however, Rowe stated that Wilkins also got out. [50]

THE SILVER MOON CAFE

Their first stop in Selma was the Silver Moon Cafe around 7:00 p.m. [51] They either did [52] or did not discuss what they were going to do that night. [53] This inconsistency was not explored at the federal trial.

THE AME CHURCH

The four returned to Thomas' car and drove several blocks toward the African Methodist Episcopal (AME) Church. [54]

47. 1965 Shanahan Interview, 1. 1965 McGovern Interview, 2. Riley Interview, 1. Barrett Interview, 6. Trial 1 at 184. Trial 2 at 483, 562. Trial 3 at 249, 326. My Undercover Years, 168. Task Force Interview, Vol. I at 143-44.
48. 1965 Shanahan Interview, 1. 1965 McGovern Interview, 2. Barrett Interview, 6. Task Force Interview, Vol. I at 144. My Undercover Years, 168.
49. Trial 2 at 561. Trial 3 at 251, 324-26.
50. Task Force Interview, Vol. I at 146-48.
51. Barrett Interview, 6. Trial 1 at 185, 257. Trial 2 at 482, 564. Trial 3 at 252, 326-28.
52. Trial 3 at 253.
53. Trial 2 at 565.
54. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 3. Riley Interview, 1. Trial 1 at 188. Trial 2 at 484. Trial 3 at 255. Task Force Interview, Vol. I at 150.

There was a crowd of marchers milling about the church thereby keeping the Thomas car about a block away. [55]

Rowe's descriptions of how his three travelling companions reacted to this crowd differ sharply. In 1965, he stated that Thomas removed his pistol from the glove compartment [56], and attempted to shoot into the group. [57] Also, in 1965, he stated that Thomas gave his gun to Wilkins at that point [58], although Rowe denied this to the Task Force. [59] In 1965 Rowe stated that when they spotted Army trucks nearby, they decided against taking any violent action. [60] But in 1979, he said that Wilkins volunteered to climb out of the car and beat up some of the demonstrators [61], and told us nobody mentioned or displayed guns near the church. [62]

55. 1965 McGovern Interview, 3. Barrett Interview, 6. Trial 1 at 188. Trial 2 at 484. Trial 3 at 256. My Undercover Years, 170. Task Force Interview, Vol. I at 150.

56. 1965 McGovern Interview, 3. Barrett Interview, 7.

57. Riley Interview, 1.

58. Barrett Interview, 6-7. Trial 3 at 257.

59. Task Force Interview, Vol. I at 174-75.

60. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 3. Riley Interview, 1. Barrett Interview, 7. Trial 3 at 256. My Undercover Years, 171. Task Force Interview, Vol. I at 152.

61. Task Force Interview, Vol. I at 151.

62. Task Force Interview, Vol. I at 163-64.

SIGHTING THE LIUZZO CAR

Thomas drove away from the AME Church and turned left onto a main street in Selma which connects with the road to Montgomery - U.S. Highway 80. [63] Between 7:30 and 8:00 p.m. [64], he pulled up to a red light at the intersection of Broad and Dallas about two, three, or four blocks from the Edmund Pettus Bridge. Rowe said Wilkins spotted a car on his left containing a white female driver and a black male passenger. [65] "Look athere, baby brother ... I'll be damn, look athere" [66], Wilkins said, or words to that effect. [67] Thomas or Wilkins then stated, "Let's get 'em" [68], or similar words [69], and then told Rowe and Wilkins to duck down in the back seat below window level. [70]

63. Trial 1 at 189.

64. 1965 McGovern Interview, 3. Trial 1 at 260.

65. 1965 Shanahan Interview, 2. Riley Interview, 2. Trial 1 at 189. Trial 2 at 485. Trial 3 at 257. Task Force Interview, Vol. I at 153-57.

66. Trial 1 at 190.

67. Trial 2 at 485, 567. Trial 3 at 257. My Undercover Years, 171. Task Force Interview, Vol. I at 156.

68. Trial 1 at 190.

69. Barrett Interview, 7. Trial 2 at 486. Trial 3 at 257-58. Senate Select, 34. My Undercover Years, 171.

70. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 3. Riley Interview, 2. Barrett Interview, 7. Trial 1 at 190. Trial 2 at 486. Trial 3 at 258. My Undercover Years, 171. Task Force Interview, Vol. I at 157.

Wilkins leaned down to his left, and Rowe to his right. [71] Thomas or Wilkins then said, "I believe we got some of the brass . . . [w]e are going to get them tonight." [72] Rowe noticed that the woman was driving a light colored Oldsmobile with Michigan plates. [73]

Rowe has consistently reiterated this account over the last fourteen years, with one exception. In his 1965 interview with Inspector McGovern, Rowe said they spotted the Liuzzo car on Highway 80 near a motel, possibly a Holiday Inn. Rowe reported that Thomas then described the car as a 1962 dark colored Ford, bearing Michigan plates with the prefix "G." No other record in FBI files or elsewhere corroborates this account to McGovern. [74]

THE CHASE

Crossing the Edmund Pettus Bridge, heading toward Montgomery on Highway 80, Thomas at some point told Wilkins and Rowe that they could now sit up. [75] "We are going all the way on this one. We came to get a black and white together" [76], Thomas said.

71. Task Force Interview, Vol. I at 157.

72. Trial 3 at 258. Also see, Barrett Interview, 7. My Undercover Years, 172.

73. Trial 1 at 189. Trial 2 at 485. Trial 3 at 259. My Undercover Years, 172.

74. 1965 McGovern Interview, 3.

75. Barrett Interview, 2. Trial 1 at 191. Trial 3 at 259. Task Force Interview, Vol. I at 165.

76. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 3. Also see, Barrett Interview, 7. Trial 3, at 259-60.

Thomas picked up speed and started to pursue the Liuzzo car. Rowe has on many occasions said he did not think anyone intended to shoot into the Liuzzo car [77], but there was some discussion, he recalled, about stopping it. [78] Rowe says he tried to convince the other three to stop the chase and go home. [79]

In one 1965 interview, Rowe apparently suggested to Thomas that if Thomas forced the Liuzzo car off the road, "Wilkins and I will jump out and get them." [80] Also, he stated that "if we are going to do anything at all, we ought to whip their ass and let the whole world see them". [81] If these remarks, which were attributed to Rowe, were accurate, it appears to the Task Force that either Rowe wanted the occupants in the Liuzzo car to be physically attacked, or that Rowe recognized that the people in the Liuzzo car were going to be shot at and that a beating was preferential to a killing.

77. Trial 1 at 217. Trial 2 at 628. Senate Select, 34.

78. 1965 McGovern Interview, 4. Trial 1 at 202, 268. Trial 2 at 571, 627. Senate Select, 34-35. My Undercover Years, 173. Task Force Interview, Vol. I at 163.

79. Trial 1 at 194, 199. Trial 3 at 262-63. My Undercover Years, 172-73. Task Force Interview, Vol. I at 170, Vol. II at 132.

80. Barrett Interview, 7-8.

81. Id., 8.

Thomas hit speeds of up to 100 miles per hour or more, [82] and either Thomas [83] or Wilkins [84], suggested bumping the Liuzzo car. Someone pointed out that bumping the car would leave paint from Thomas' car on the Liuzzo car, so they rejected that idea. [85]

Thomas tried several times to pull even with or pass her. At one point, he pulled up to the right side of her car, when Rowe noticed they were approaching military police at Craig Air Force Base, and Thomas slowed down. [86] In one FBI interview, Rowe said that Thomas at that point rolled down his window and started to raise his revolver just as Rowe noticed the military police. [87] This version appears nowhere else, and was specifically called into question by Rowe himself. [88]

82. 1965 McGovern Interview, 4. Riley Interview, 2. Trial 1 at 199. Trial 2 at 570. Trial 3 at 260. Senate Select, 34; My Undercover Years, 1973.
83. Barrett Interview, 8. Trial 1 at 200. Trial 2 at 628. Trial 3 at 262. My Undercover Years, 173. Task Force Interview, Vol. II at 125.
84. 1965 McGovern Interview, 3. Riley Interview, 3.
85. 1965 McGovern Interview, 3. Riley Interview, 3. Barrett Interview, 8. Trial 1 at 200. Trial 2 at 628. Trial 3 at 262. My Undercover Years, 173. Task Force Interview, Vol. II at 125.
86. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 4. Riley Interview, 2. Barrett Interview, 7. Trial 1 at 194. Trial 3 at 260. My Undercover Years, 173.
87. 1965 McGovern Interview, 4.
88. Task Force Interview, Vol. I at 173.

Thomas slowed down again when he approached the place where he had been ticketed earlier in the evening. Thomas attempted to overtake the Liuzzo car again as she crossed a bridge near Benson's Store, where U.S. 80 turned into a two-lane highway. A couple of transfer trucks approached from the opposite direction [89], thereby quashing the attempt.

This does not square with Rowe's trial testimony. Rowe testified that Thomas and Wilkins decided against passing her at that point when Rowe spotted a building filled with black people. He said Thomas then tried a third time to pull even with Mrs. Liuzzo, when the transfer trucks came into view. [90]

At the first trial, Rowe testified that Thomas made yet a fourth attempt to pass the Liuzzo car, and pulled back when Rowe spotted headlights behind them. [91]

THE SHOOTING

After the road turned from four to two lanes, Wilkins told Thomas to "give it some gas", and they finally caught up to the Liuzzo car. [92] Eaton opened up the right front and Wilkins the right rear window, and fired a total of

89. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 4. Riley Interview, 2-3. Barrett Interview, 8. Trial 1 at 196. Trial 3 at 261. My Undercover Years, 174.

90. Trial 1 at 198-99. Trial 3 at 262-63.

91. Trial 1 at 194. Also see, Barrett Interview, 8.

92. Trial 1 at 202. Trial 2 at 488.

eleven or twelve shots at the car. Mrs. Liuzzo turned toward them as Wilkins squeezed off the first few rounds. [93] Rowe says he did not fire any shots [94], although he pointed his gun out the window and pretended to shoot. [95] Nor did Rowe even touch Thomas' gun that day. [96]

Eaton fired a .22 caliber gun; Wilkins used Thomas' .38 revolver, Rowe said. [97] At the time of the shooting, Thomas was driving; Eaton was sitting to his right; behind Thomas was Rowe with Wilkins to Rowe's right. [98]

Rowe has given varying accounts on the sequence of these pistol shots. At one point, he said Eaton fired two shots either prior to or at the same time as Wilkins began

93. 1965 Shanahan Interview, 2-3. 1965 McGovern Interview, 4. Riley Interview, 3. Barrett Interview, 8. Trial 1 at 201-03, 261, 267-69. Trial 2 at 488-90. Trial 3 at 264. Senate Select, 34. My Undercover Years, 175. Task Force Interview, Vol. I at 181, 184.
94. 1965 Shanahan Interview, 3. 1965 McGovern Interview, 4. Riley Interview, 3. Barrett Interview, 8. Trial 1 at 203, 261. Trial 2 at 491. Trial 3 at 265, 333. My Undercover Years, 175. Task Force Interview, Vol. I at 195.
95. 1965 Shanahan Interview, 3. 1965 McGovern Interview, 4. Riley Interview, 3. Barrett Interview, 8. Trial 1 at 261. Trial 2 at 491. My Undercover Years, 175. Task Force Interview, Vol. I at 178-79.
96. Task Force Interview, Vol. I at 176.
97. 1965 Shanahan Interview, 2. 1965 McGovern Interview, 5. Trial 1 at 201, 203, 213. Trial 2 at 489-90. Trial 3 at 264-65. My Undercover Years, 172, 175. Task Force Interview, Vol. I at 174-76.
98. 1965 McGovern Interview, 4. Riley Interview, 3. Barrett Interview, 6. Trial 1 at 193, 267. Trial 2 at 486-87, 559, 566. Trial 3 at 319, 322. Task Force Interview, Vol. I at 143, 178.

to fire. [99] However, Rowe has testified on other occasions that Wilkins began the shooting, stuck his arm out the window at elbow's length, and fired two quick shots before Eaton began to fire. [100]

After Wilkins fired the first two shots, Rowe heard bullets hitting the car and Thomas shouting, "Shoot the hell out of them", or words to that effect. [101]

Rowe's account of how he pretended to shoot also varies with the retelling. Rowe testified that Wilkins, after firing two shots, told Rowe to move over, stick his arm out the window, and fire. [102] But in his book and in 1979, Rowe said that he stuck his arm out the rear window before Wilkins fired any shots. [103]

In 1979, Rowe said Wilkins' first shot "shattered", but did not "penetrate" the glass, and "the second shot is the one you could see blood run down the woman's face" [104], and "in my heart . . . killed the woman". [105]

99. 1965 Shanahan Interview, 3. 1965 McGovern Interview, 4.

100. Trial 1 at 202. Trial 2 at 492, 577. Trial 3 at 264. Task Force Interview, Vol. I at 183, 201.

101. Trial 1 at 203. Trial 2 at 491-92. Trial 3 at 264.

102. Trial 1 at 203, 261. Trial 2 at 492. Trial 3 at 264.

103. My Undercover Years, 175. Task Force Interview, Vol. I at 178-81, 210-11.

104. Task Force Interview, Vol. I at 182. Also see, Interview, Vol. I at 193.

105. Id., Vol. II at 136.

Rowe admitted that he did nothing to prevent Wilkins from shooting Mrs. Liuzzo. "I didn't know the shots were going to be fired until they were fired." [106] He did not ask them not to shoot, and did not try knocking Wilkins' arm. [107] In fact, Rowe told us that he did not even consider hitting Wilkins' hand even after Wilkins started firing. Rowe thought Wilkins merely intended to shoot the tires in the Liuzzo car. Rowe insisted that hitting Wilkins would have been unwise and could have allowed Wilkins to say later that "I was going to shoot the tire out; Rowe hit my god damn hand and caused me to kill the woman." [108]

WHOM DID ROWE SEE KILLED?

Before his 1975 Senate Select testimony, Rowe never indicated he knew for certain whether Wilkins' and Eaton's pistol shots killed or even hit anyone when fired. He testified that as Thomas sped away from the Liuzzo car, Rowe turned to Wilkins and said something like, "Good God, you missed." [109] "I don't miss," Wilkins replied, "that bitch and bastard are

106. Trial 1 at 267. Also see, Trial 2 at 628.

107. Trial 2 at 578. Trial 3 at 333.

108. Task Force Interview, Vol. I at 184-86. Also see, Barrett Interview, 8.

109. Trial 1 at 204. Trial 2 at 489, 630. Trial 3 at 265. Also see, 1965 Shanahan Interview, 3. 1965 McGovern Interview, 5.

both dead and in hell." [110] Also, Rowe stated in 1965 that the four discussed disposing the guns "in case they had killed both victims" [111],

Special Agent Shanahan talked to Rowe shortly after the shooting and was certain that Rowe did not know then whether Wilkins or Eaton had hit anybody. At the federal trial, Shanahan testified that when Rowe met him in the early morning of March 26, 1965:

[Rowe] said that ... Wilkins and Eaton shot out the window of the automobile [at] another automobile with a woman in it and shot all the glass out. He didn't know at that time whether or not they had struck anyone, whether they had injured anyone; he knew the car went off the road. [112]

In 1975, Rowe changed his story radically. Before the Senate Select Committee staff, he said he witnessed the killing of Viola Liuzzo and her black male passenger. Rowe saw the woman "grab her face, throw up her mouth like she was screaming, and fall over" the passenger. [113] Similarly, he "saw the man grab his face, fall on the dash, and then roll over toward his left, like he had fell [sic] in the lap

110. Trial 2 at 630. Trial 3 at 265. Also see, 1965 Shanahan Interview, 3. 1965 McGovern Interview, 5. Barrett Interview, 8. Trial 1 at 204. Trial 2 at 489. My Undercover Years, 175.

111. Riley Interview, 3.

112. Trial 3 at 151. Also see, Trial 2 at 706 (Shanahan Testimony).

113. Senate Select, 34.

of the woman." [114] Rowe insisted he reported this to Agent Shanahan when Rowe returned to Birmingham on March 25th. "There was two [people], and I saw them both die. Now, that's what I told" Agent Shanahan. [115]

In the February 1979 interview with Rowe, the Task Force failed to resolve the conflicts in his accounts of the shooting. Rowe could not imagine ever telling Wilkins that he missed the Liuzzo car. [116] Rowe told us he saw Mrs. Liuzzo hit by Wilkins' second shot. [117] Rowe also insisted that the black passenger he saw shot in the head [118] was the same black man Rowe saw in Selma when the Liuzzo car was first spotted. [119] He told us he was certain that both Mrs. Liuzzo and her passenger had died that night [120], and that he had told Agent Shanahan shortly after he returned to Birmingham. [121]

We asked Shanahan to explain Rowe's inconsistent statements. At first, Shanahan told us that Rowe was convinced that

114. Id. Also see My Undercover Years, 175. Task Force Interview, Vol. I at 190-91, 194-95.

115. Senate Select, 35. Also see, Id., 45-46. My Undercover Years, 175, 179-80.

116. Task Force Interview, Vol. II at 122-23, 127.

117. Id., Vol. I at 182.

118. Id., Vol. I at 187.

119. Id., Vol. I at 189.

120. Id., Vol. II at 127.

121. Id., Vol. I at 19293, 20405, 21516. Vol. II at 121, 128.

Wilkins and/or Eaton had killed both Mrs. Liuzzo and her black passenger. [122] Shanahan explained that he did not include this in his March 26th report because he then "probably knew that the other guy in the car was alive and well". [123]

When told that this story now conflicted with his prior trial testimony, Shanahan read the testimony and told us that it was more accurate than his present recollection because it was "more contemporaneous with the occurrence", [i.e., the shooting]. [124]

THE TRIP HOME

In 1965, Rowe emphatically stated that after the shooting the four did not stop or return to the Liuzzo car to see if they had done any damage. [125] At the first trial, Rowe testified that the Thomas car did not stop for at least twenty miles. [126] Defense lawyer, Matt Murphy, specifically questioned Rowe about this on the stand [127]:

Question: You never did return to the car then?

Rowe: No, sir.

Question: You are certain of that, Mr. Rowe?

Rowe: I am very certain, we did not go back to the Liuzzo automobile. [127]

122. Shanahan Interview by Task Force, supra n. 29 at 128.

123. Id.

124. Id., 144.

125. Trial 2 at 580, 583-84.

126. Trial 1 at 265.

127. Id., 266.

Later in 1965, Rowe told Special Agent James C. Carlisle and San Francisco Special Agent in Charge Lynum that Thomas' car "did not come back at all, but continued down the highway after the shooting", and thus, Leroy Moton, the black man who testified to the contrary at the state trials, was incorrect. [128]

In his 1975 Senate deposition, Rowe recounted a dramatically different story. After the shooting, someone in the car told Thomas to stop. Thomas applied the brakes, turned his car around, and headed back to the Liuzzo car. Wilkins jumped out of the car, climbed down a ravine and over some bushes, and returned to tell the other three that he had blown the passenger's head off. Wilkins also apparently told Thomas that Thomas must have been wrong when he appeared to see a head pop up in the back of the Liuzzo car. [129]

In 1979, Rowe gave us a similar version. He said Wilkins ordered Thomas to stop the car, over Rowe's own objections. Wilkins got out of the car and returned from the Liuzzo car to say, "I'm one hell of a shot ... I killed both the fuckers." [130]

We pointed out to Rowe the conflicts between his 1965 and post-1974 accounts, and he replied that he could not

128. Airtel from SF SAC to Director, Nov. 15, 1965; BH 44-1236-724; Task Force 4542.

129. Senate Select, 45.

130. Task Force Interview, Vol. 1 at 191-92, 198.

recall his 1965 trial testimony and simply could not account for the contradictions, although he did recall that no one forced him to give the trial testimony which now conflicts with his 1975 account. [131] When asked why his 1965 account would not tend to be "better" and more accurate, Rowe said:

I don't know. You know I'm beginning to wonder. I had a hell of a trauma there, so I'm just not sure, just to be honest with you. [132]

On several occasions, Rowe said that Wilkins accused him of not firing his gun and that Rowe responded by saying he fired twice. [133] In a 1965 interview, however, Rowe said that Wilkins, Thomas, and Eaton did not realize "in the excitement that he [Rowe] had not himself fired at the car." [134]

Rowe has repeatedly stated that Wilkins and Eaton threw their empty shells out of the car after the shooting. [135] But he has not been consistent as to precisely when they did so. Rowe has alternatively stated that Wilkins and Eaton threw out their empty cartridges one half to two miles from

131. Id., Vol. I at 202-04. Vol. II at 134.

132. Id., Vol. II at 134.

133. Trial 1 at 205. Trial 2 at 492. My Undercover Years, 175. Task Force Interview, Vol. II at 137-38.

134. 1965 McGovern Interview, 4.

135. 1965 Shanahan Interview, 3. 1965 McGovern Interview, 5. Riley Interview, 3. Barrett Interview, 9. Trial 1 at 205. Trial 2, 493, 581. Trial 3 at 266, 333. My Undercover Years, 176. Task Force Interview, Vol. II at 198.

the shooting [136], not far from the Liuzzo car [137], and even within a second or two after the shooting. [138]

Rowe debated drawing his gun on either Thomas [139] or Wilkins [140], but decided against doing anything because he was afraid local police would find them, side with the three klansmen, and kill Rowe. [141]

THE ROWE-SHANAHAN MEETING

Shortly after 11:00 p.m., Rowe telephoned the Birmingham FBI office from a public telephone booth in Central Park, Birmingham. [142] Rowe briefed Agent Shanahan on the telephone, and they agreed to meet at 12:30 a.m. at the West End Baptist Hospital parking lot in Birmingham. [143]

At the hospital parking lot, Rowe got into Shanahan's car, and together they drove around for several hours. [144]

136. 1965 McGovern Interview at 5. Riley Interview, 3. Trial 1 at 205-06. Trial 2 at 493, 582.

137. Task Force Interview, Vol. I at 198-99.

138. Trial 2 at 583.

139. Barrett Interview, 9. My Undercover Years, 1976.

140. Task Force Interview, Vol. I at 199.

141. My Undercover Years, 176. Task Force Interview, Vol. I at 199-200.

142. 1965 Shanahan Interview, 3. Trial 1 at 211, 272. Trial 2 at 496-97, 599-600. Trial 3 at 270, 346. My Undercover Years, 179.

143. 1965 Shanahan Interview, 1. Barrett Interview, 10. Trial 3 at 270, 346. Trial 3 at 139-40 (Shanahan Testimony). My Undercover Years, 180. Task Force Interview, Vol. I at 226.

144. 1965 Shanahan Interview, 1. Barrett Interview, 10. Trial 2, at 602-05. Trial 2 at 707 (Shanahan Testimony). Trial 3 at 139-40 (Shanahan Testimony). Trial 3 at 347-48.

Rowe turned over his gun and some cartridges[145]; Shanahan smelled it at Rowe's suggestion [146], determined the gun had not recently been fired [147], and removed the cartridges. [148] He found it fully loaded and apparently in firing condition, but with a bent sight. [149] Rowe testified and Shanahan now confirms that Rowe gave Shanahan some, but not all, of his bullets. [150]

Shanahan's report of their meeting indicates that he then advised Rowe of his rights. [151] However, Rowe strenuously denies this happened. [152] Rowe insists that he would have become alarmed had Shanahan done so.[153]

145. Trial 1 at 214, 273. Trial 1 at 329 (Shanahan Testimony). Trial 2 at 497. Trial 2 at 702 (Shanahan Testimony). Trial 3 at 139-40 (Shanahan Testimony). Trial 3 at 347-48.

146. My Undercover Years, 180. Shanahan Interview by Task Force, supra n. 29 at 250.

147. Trial 3 at 157 (Shanahan Testimony).

148. Id., 141-42 (Shanahan Testimony).

149. Shanahan Interview by Task Force, supra n. 29 at 137-39.

150. Trial 1 at 273-74. Shanahan Interview by Task Force, supra n. 29 at 137, 141.

151. 1965 Shanahan Interview, 1.

152. Task Force Interview, Vol. I at 227.

153. Id., Vol. II at 121-22.

C. Accounts of Eugene Thomas and Collie Leroy Wilkins

EUGENE THOMAS

Eugene Thomas joined the U.S. Klans of America in 1958 while living in his hometown, Bessemer, Alabama.[1] The father of three children, he was employed by U.S. Steel until his incarceration at the Atlanta Federal Penitentiary after being convicted, along with William O. Eaton and Collie Leroy Wilkins, for violating Viola Liuzzo's civil rights under 18 USC 241.[2]

Born on March 2, 1923, Thomas attended local schools in his hometown and completed the ninth grade.[3] After working briefly in the Civilian Conservation Corp, Thomas enlisted in the Naval Reserve in 1943.[4] Placed on active service in June 1943, Thomas remained in the Navy until December 1945, at which time he received an honorable discharge.[5] However, Thomas was charged and convicted of being AWOL on two separate occasions.[6]

1. Eugene Thomas Interview by Task Force, Feb. 9, 1979, 3.

2. Id.

3. Id., 2-3.

4. Report of SA Spencer Robb, Nov. 24, 1965; HQ 44-28601; 18, located in records of U.S. Attorney (M.D. Ala.) U.S. v. William Orville Eaton, et al.

5. Id.

6. Id.

Thomas remained in the U.S. Klan when it merged with Robert Shelton's United Klans of America (UKA). Elected Exalted Cyclops of Bessemer Klavern[7] 20[8], he subsequently became Klokian Chief,[9] and in 1964 Grand Klaliff[10] for the State of Alabama.[11]

Thomas' civilian criminal record indicates that he was arrested for assault and battery, on November 12, 1947, May 27, 1950, and June 5, 1956, with two of these resulting from beatings inflicted on his wife.[12]

When segregationist demonstrations followed the University of Alabama's court ordered integration in June 1963, the County Sheriff arrested Thomas near Tuscaloosa for drunken driving and carrying concealed weapons.[13] Alabama authorities arrested eight others that day in the Tuscaloosa area for weapons charges,[14] but later dropped charges against

7. Exalted Cyclops is the elected leader of a klavern. Klavern is the smallest state unit of the UKA.
8. E. Thomas Interview by Task Force, supra n. 1 at 3.
9. Klokian Chief is responsible for recruiting and investigating new members.
10. Grand Klaliff is the vice-president of the state klan organization.
11. E. Thomas Interview by Task Force, supra n. 1 at 5.
12. Airtel from BH SAC to Director, Apr. 7, 1965; HQ 44-28601-169; Task Force 3791-92.
13. Id., 3792. Tuscaloosa News, June 10, 1963; BH 157-728-508; Task Force 1245.
14. Id.

Thomas.[15] Although this was the FBI's only record of Thomas being arrested on racially connected charges, the records do indicate that he was deeply involved in KKK efforts to intimidate and harass civil rights activists.[16]

In May 1962, Gene Thomas and other klansmen spotted a group of blacks at a carnival in Bessemer. According to a Bessemer policeman, Thomas gave the signal to attack, and then hit one man in the head with a blackjack wrapped in fishing line.[17] Rowe reported that Thomas hit another black man over the head with a steel chain.[18]

In July 1964, Rowe accompanied several Eastview klansmen to Bessemer to assist in opposing integration efforts in the area.[19] Rowe learned from a policeman, he later reported, that Eugene Thomas had attacked a black person who was participating in a sit-in at a local restaurant. Thomas was the first to hit the demonstrator. Thomas punched him in the face, before other klansmen attacked him with a baseball bat.[20]

15. BH SAC to Director, supra n. 12 at 3792.

16. BH 105-655 (Bessemer Klavern file).

17. Report of SA Alan Gilson, Apr. 22, 1965; BH 157-569, CRD 144-2-470 § 6.

18. Report of Gary T. Rowe to SA Byron McFall, Apr. 12, 1962, BH 170-9-SF-110.

19. Report of Rowe to SA J. Brooke Blake, July 7, 8, 10, 1964; BH 157-352-4857; Task Force 2894.

20. Id.

Several months later on September 26, 1964, several klansmen drove from a Warrior klan rally to the Bessemer klavern meeting hall to discuss what they would do about "race mixing" at the Flame Club in Fairfield, Alabama. Rowe and Eugene Thomas were there, along with thirty to thirty-five other klansmen. As Rowe reported to the FBI, a group of them, himself and Thomas included, decided to visit the club to examine the "race mixing" first hand. They arrived, saw blacks and whites dancing together, turned around, and left. Thomas then called a lieutenant on the Bessemer Police Department, who later met the men at a Shell service station in Bessemer to discuss what weapons they would need.[21]

Thomas said he needed dynamite, machine guns, and hand grenades. The lieutenant left and shortly returned with eight sticks of dynamite, a Thompson .45 caliber sub-machine gun, and five or six fragmentation-type hand grenades.[22]

Eugene Thomas had designed a plan, as Rowe told it to the FBI, in which klansmen would place dynamite at the back exits of the club, set it off, and then cover the front and side exits with automatic weapons' fire.[23] Thomas' group returned to the club, discovered several Fairfield Police cars parked in front, and cancelled their plans.[24]

21. Report of Rowe to SA Neil P. Shanahan, Sept. 27, Oct. 1-2, 1964; BH 105-653-703; Task Force 3213.

22. Id.

23. Id., 3214.

24. Id., 3213-14.

The next day, they met again at Robert Thomas' house to plan another attack on October 13, 1964, but by October 1, 1964, Robert Shelton, Imperial Wizard, decided that klan violence at the Flame Club would be "politically inappropriate" and advised the Thomas group to use local authorities to put a stop to the race mixing.[25]

According to Rowe, Thomas had accumulated, at one time or another, a small munitions arsenal. In November 1964, Rowe had seen Thomas with the following weapons: .38 and .45 caliber pistols, automatic shotgun, a Japanese rifle, a 30/30 Winchester rifle, two M-1's, and three .303 Enfield rifles, a Browning automatic rifle, hand grenades, blasting caps, and a German automatic machine gun.[26]

Thomas first met Gary Thomas Rowe shortly after Rowe joined the Eastview Klavern 13 in June 1960. While not saying why, Thomas immediately suspected him of being an FBI informant and decided to investigate his background.[27] Thomas stated to us that shortly after Rowe joined the klan, he observed Rowe coming out of the 2121 Building in Birmingham, the present site of the FBI Birmingham field office. [28] When Thomas questioned him about this, Rowe explained

25. Id., 3214.

26. Report of SA C. B. Stanberry, Nov. 28, 1964; BH 157-852-13; Task Force 3409.

27. E. Thomas Interview by Task Force, supra n. 1 at 8.

28. Id.

that he was simply visiting a friend there.[29] The Birmingham field office did not move into the 2121 Building until December 1962, almost 2 1/2 years after Rowe joined the klan, according to field office records. Rowe told the Task Force that he never went to the 2121 Building until March 1965.

About a month after observing Rowe, Thomas claims someone photographed Rowe leaving this building.[30] Thomas said he presented this photograph and expressed his concern to Robert Shelton and Robert Creel of the UKA in an effort to have Rowe thrown out of the klan;[31] but Shelton and Creel were apparently unpersuaded by this evidence and refused to remove Rowe. [32]

COLLIE LEROY WILKINS

In the spring of 1965, Collie Leroy Wilkins was a self-employed automobile mechanic in Bessemer, Alabama. He was 21 and had been associated with the UKA Bessemer klavern for three years.[33] He joined because "I felt like I ought to; that's about the only organization that promoted our way of life and was resisting the integration movement." [34] He soon met Eugene Thomas, who became his mentor and close friend.[35]

29. Id.

30. Id., 9.

31. Id.

32. Id.

33. Collie Leroy Wilkins Interview by Task Force, Feb. 9, 1979, 69-70.

34. Id., 70.

35. See Norwood Ensley Interview by Task Force, Feb. 19, 1979, 3, 6.

Born in Birmingham, Alabama, on July 25, 1943, Wilkins grew up in Bessemer and quit Fairfield High School in the eleventh grade to become an automobile mechanic.[36]

As a klansman, Wilkins helped distribute klan literature, attended rallies, and supported selected political candidates. When asked about his involvement in "skinning heads," a klan term for beating up black people, Wilkins said, "There was a little bit of skinning heads going on. We didn't skin too many." [37]

Wilkins' police record, as well as his general reputation among law enforcement personnel, indicates that he had occasional scrapes with the law. At age 16, Wilkins was convicted in Fairfield, Alabama, for petty larceny and destruction of private property.[38] Several years later, the Jefferson County Sheriff's office charged him with malicious destruction of private property, but for some reason, chose not to press charges.[39]

On March 11, 1964, Wilkins was charged with a violation of the National Firearms Act (possession of a sawed-off shot-

36. Id., 69-70. Report of SA Robert Murphy and SA Jacob Schmidt, Mar. 26, 1965; BH 44-1236; Task Force 3725.

37. Wilkins Interview by Task Force, supra n. 33 at 71.

38. BH SAC to Director, supra n. 12 at 3792.

39. Id.

gun).[40] Special Agent Robert Murphy recalled in our interview that Wilkins was initially apprehended in this case on suspicion of terrorizing blacks after shooting the gun into their homes.[41] Special Agent Neil Shanahan confirms Murphy's story.[42]

After his arrest, Hueytown, Alabama, police searched his car and discovered a klan robe, Kloran (klan procedure manual), baseball bat, pistol, and sawed-off shotgun.[43] When interviewed at the time by Special Agent Murphy, he denied that he was a member of the klan,[44] because, as he now tells it, he "really didn't consider it none of their [FBI] business." [45] He told Murphy in 1964 that he did not know how the klan robe got in his trunk.[46]

Murphy now describes Wilkins as "a very unusual person ... somebody that was quite prone to violence, probably not too mentally stable." [47] Murphy remembers Wilkins believing that

40. Id.

41. Report of SA Melton Alexander, Nov. 24, 1965; HQ 44-28601-589; Task Force 4605. Robert Murphy Interview by Task Force, Mar. 8, 1979, Vol. I at 18.

42. Neil P. Shanahan Interview by Task Force, Feb. 27, 1979, 229.

43. Report of SA Alexander, Nov. 24, 1965; HQ 44-28601-589; Task Force 4608-09.

44. Id., 4605.

45. Wilkins Interview by Task Force, supra n. 33 at 66.

46. Report of SA Alexander, supra n. 43 at 4605.

47. Murphy Interview by Task Force, supra n. 41, Vol. I at 23.

blacks "were not citizens of the United States; that they were not entitled to constitutional protection; they were subhuman." [48] Wilkins further maintained, according to Agent Murphy, that the constitution "allowed [him] to have machine guns, tanks, and if [he] chose to, poison gas and mustard gas." [49] The Task Force was unable to locate contemporaneous FBI documents lending support to Murphy's present-day observations, however.

On December 3, 1964, Wilkins was charged by the Jefferson County Sheriff's office with assault with intent to commit murder, [50] after the November 7, 1964, shooting of an off-duty policeman, Wiley Joe (Red) Kenny. [51] Both Kenny and Wilkins had been drinking for some time when they apparently started arguing about a woman. [52] As Wilkins recounts, Kenny, who had been drunk all day, drew his .357 Magnum and threatened to "blow [Wilkins] goddamn brains out." [53] Wilkins dropped to the ground, drew his .45 caliber pistol and shot Kenny "right through the belly button." [54]

48. Id., Vol. I at 21.

49. Id.

50. BH SAC to Director, supra n. 12, Task Force 3793.

51. Memorandum from SA Roy M. Osborn to BH SAC, Mar. 30, 1965; BH 174-6-713; Task Force 3728-137. Wilkins Interview by Task Force supra n. 33 at 76.

52. Id.

53. Wilkins Interview by Task Force, supra n. 33 at 78.

54. Id.

Wilkins was found not guilty of the original charge.[55] However, he pleaded guilty in Jefferson County Court to a misdemeanor charge of having an unlicensed pistol.[56]

WILLIAM ORVILLE EATON

Born in 1922 in Athens, Alabama, Eaton left school in the seventh grade and went to work until joining the army at 18. He was honorably discharged in 1946 and became employed by Tennessee Coal and Iron where he worked until shortly before the Liuzzo murder. Eaton had to resign for health reasons and thought he only had a short time to live when he was convicted in Federal court of violation of civil rights. He died of natural causes on March 9, 1966, leaving a wife and five children. He was a regular member of the klan's Bessemer klavern and, while out on bond, was seen wearing a shoulder holster and pistol at a klan meeting about one month after the Liuzzo killing.[57]

THE LIUZZO SHOOTING

In 1965, Eugene Thomas had climbed up the klan hierarchy to the position of Grand Klaliff. Wilkins continued to stay friendly with Thomas and became fond of Eaton, then 43.[58]

55. Id., 78.

56. Id., 78. SA Osborn Memorandum, supra n. 51 at 3728-136. Airtel, Apr. 7, 1965, supra n. 12 at 3793.

57. Report of SA Alan Gilson, Dec. 29, 1965, CRD 144-2-470, § 12.

58. Report of SA Shanahan, Oct. 1, 1965; BH 157-1159-47; Task Force 4293.

"[T]he three of us run around all the time together," Wilkins said.[59] All three decided to drive to Montgomery on March 25, 1965, the day the Selma civil rights march was scheduled to arrive.

Gary Thomas Rowe joined them. According to Eugene Thomas, Robert Thomas (no relation) had told Eugene on March 23 that he was planning to go with Rowe and two others.[60] On the night of March 24, Robert Thomas telephoned Eugene Thomas to say that he could not make the trip on account of his job and asked Eugene to allow Rowe to go along with him.[61] Eugene replied to Robert, "'I don't care about him going [meaning I don't want Rowe with us], but if you ask me to let him go, I'll let him go if he's there [at Eugene's home] by 9 o'clock [a.m.]. We're leaving at 9:00 sharp.' Well, he pulled up at my house about ten minutes of nine the next morning." [62] Eugene Thomas never would have let Rowe accompany him, he insisted in his interview, had Robert Thomas not called him on Rowe's behalf the day before they set out for Montgomery.[63]

Wilkins' recollection of how Rowe happened to go along is somewhat different. He remembers Rowe overhearing a conversation he had with Gene Thomas about the trip at a Bessemer

59. Wilkins Interview by Task Force, supra n. 33 at 27.

60. E. Thomas Interview by Task Force, supra n. 1 at 11.

61. Id.

62. Id.

63. Id., 17.

klan meeting.[64] Rowe said he would "like to come and go with us. We said, yeah, it would be alright." [65] Gene Thomas did receive a call one or two days before March 25, Wilkins recalls, from either Rowe or Robert Thomas asking that Rowe be allowed to go along.[66] Wilkins remembers meeting Eaton at Gene Thomas' house around 7:00 or 7:30 on the 25th.[67] Rowe had just called Eugene that morning to say "he would be there ... he was running a bit late, and to wait on him." [68]

Wilkins met Rowe on a trip with klansmen Robert Shelton and Robert Creel to attend a klan rally in Savannah, Georgia.[69] Gene Thomas says Wilkins met Rowe on at least one other occasion, when Bessemer klansmen joined forces with several from Eastview 13 in a plan to break up "race mixing" at the Birmingham's Sand Ridge Country Club.[71] Gene Thomas maintains that Wilkins trusted Rowe even less than he did.[71]

In his interview with the task force, Wilkins was not so certain that Rowe was an FBI "plant," "I didn't know either

64. Wilkins Interview by Task Force, supra n. 3 at 43.

65. Id.

66. Id., 7-8.

67. Id., 43.

68. Id., 80.

69. Id., 5.

70. E. Thomas Interview by Task Force, supra n. 1 at 76. Also, see 48.

71. Id., 17.

way, but it really didn't make much difference to me, I wasn't going to do nothing with him no how.[72] I didn't think nothing unusual about it, nothing strange about it. A lot of time we'd-- members of different units would get together and go places together...."[73]

Both Wilkins and Thomas say that they took the trip to Montgomery in order "to observe the 'thing' and see what was going on." [74] "We just wanted to see what they looked like, we'd heard so much about them," Thomas said.[75] Thomas had travelled to Montgomery earlier to observe the civil rights demonstration[76] and when he returned to Bessemer, he reportedly announced at a klavern meeting: "If those beatniks and queers come to Bessemer, a great many of them will never leave." [77] In his interview in February 1979, Thomas denied ever saying this,[78] but he did allow that there "were a bunch of dirty, filthy looking people down there." [79]

72. Wilkins Interview by Task Force, supra n. 33 at 6.

73. Id., 75.

74. Id., 6. E. Thomas Interview by Task Force, supra n. 1 at 19.

75. E. Thomas Interview by Task Force, supra n. 1 at 19.

76. Id., 110-11.

77. Report of Norwood Ensley to SA Stanberry, Mar. 15, 1965; BH 100-3080-2347.

78. E. Thomas Interview by Task Force, supra n. 1 at 112.

79. Id., 111.

They decided to go to Montgomery apparently over the objections of Robert Shelton. According to an FBI informant, Shelton met with Alabama Governor George Wallace and Al Lingo, Director of Public Safety, to discuss the upcoming civil rights demonstration at Montgomery and Selma. "Shelton agreed to do all he could to keep any klanspersons or others which he may have influence over away from these spots where violence could occur." [80]

Wilkins was unaware of Shelton's efforts to keep klansmen out of the area. "If I'd knowed it, I would'na went down there." [81]

Thomas knew of Shelton's efforts [82] but justified the trip by saying he was on vacation and was not going to Montgomery on klan business. [83]

Leaving Thomas' house, Eaton, Thomas, Wilkins, and Rowe climbed into Thomas' car, and after stopping for coffee in Prattville, Alabama, arrived in Montgomery around "9:00 or a little bit after" according to Wilkins. [84]

80. Report of Fulton Roebuck, Mar. 22, 1965; 170-19A-279; Task Force 3640.

81. Wilkins Interview by Task Force, supra n. 33 at 7.

82. E. Thomas Interview by Task Force, supra n. 1 at 54.

83. Id., 74.

84. Wilkins Interview by Task Force, supra n. 33 at 9.

They stopped at a parking spot where Wilkins and Thomas generally recall Rowe saying to Thomas, "If you're not going to carry your gun, can I carry it?"[85], explaining that he had dropped his gun, knocked the cylinder out of line[86] and "probably couldn't hit the broad side of a barn with it." [87] Thomas recalls Rowe saying, "I feel naked without a gun." [88]

"'Well,' Thomas replied, 'mine's there in the glove compartment, if you want to carry it, get it out and put yours up there.' So he got mine out of the holster and put his in his holster and put his [gun] up there in the glove compartment." [89] According to Wilkins, Rowe carried Thomas' gun all day while his own [Rowe's] remained in the glove box. [90]

This conflicts with his FBI interview on March 26, 1965, in which Thomas stated that he took his .38 caliber revolver with him to Montgomery but left it in the glove compartment the entire trip. He then claimed he knew nothing about anyone else having it. [91]

85. E. Thomas Interview by Task Force, supra n. 1 at 12.
Wilkins Interview by Task Force, supra n. 33 at 10.

86. Id.; E. Thomas Interview by Task Force, supra n. 1 at 12.

87. Wilkins Interview by Task Force, supra n. 33 at 10.

88. E. Thomas Interview by Task Force, supra n. 1 at 12.

89. Id.; Wilkins Interview by Task Force, supra n. 33 at 10.

90. Wilkins Interview by Task Force, supra n. 33 at 21, 36.

91. Memorandum from MO SAC to Director, Apr. 12, 1965;
HQ 44-28601-295; Task Force 3717.

Leaving the parked car, the four men walked to a service station and watched the march.[92] Thomas alleges that "on two instances while we were there, [Rowe] started trying to get trouble started between the marchers and people on the sidewalks there." [93] After the march ended, they returned to the car and drove west on U.S. Highway 80 toward Selma, Alabama, stopping first at Jack's Grill, a restaurant on the outskirts of Montgomery.[94] While there, according to Wilkins, Gene Thomas engaged in a conversation with another patron he recognized.[95] Wilkins could not overhear their conversation, and does not know what was said.[96] Thomas recalls that it was his first visit to the restaurant, and "I didn't see anyone that I recognized." [97]

After leaving the restaurant, the four got back on Highway 80 and continued west toward Selma. At 6:20 p.m., Alabama Highway Patrol Trooper, James Hagood, pulled the car over, and issued Thomas a warning ticket for an improper muffler.[98] According

92. E. Thomas Interview by Task Force, supra n. 1 at 12.
Wilkins Interview by Task Force, supra n. 33 at 10.

93. E. Thomas Interview by Task Force, supra n. 1 at 13.

94. Wilkins Interview by Task Force, supra n. 33 at 12.

95. Id.

96. Id., 13.

97. E. Thomas Interview by Task Force, supra n. 1 at 20.

98. Report of SA J.R. Connors, Mar. 30, 1965; HQ 44-28601-28 at 98.

to the FBI interview of Hagood, when the car stopped, Thomas and one passenger got out of the front seat of the car. It appeared to Hagood that one passenger remained in the rear seat of the car.[99] At the second Wilkins murder trial, Hagood could not positively identify who other than Thomas got out of the car.[100] On cross-examination, he was allowed to offer an opinion that Rowe got out of the car on the right side,[101] a statement which contradicted Rowe's trial testimony. At the Federal trial in November, Hagood once again stated that he could not positively identify the passenger who got out of the car.[102] In response to questions put to him by John Doar, Hagood testified that he saw another passenger seated in the left rear seat who appeared to be between 20-25 years old, the youngest of the men he saw.[103] Rowe was 31 years old at this time, and Wilkins was 21.

Wilkins recalls, "Other than just Eaton getting out and opening the door and standing up, Gene is the only one that got out, I guess." [104] However, Wilkins seemed uncertain on this point.

99. Id.

100. State v. Wilkins, No. 155, Circuit Court Lowndes County, Ala., Oct. 1965, 643.

101. Id., 649.

102. U.S. v. Eaton, et al., No. 11736, M.D., Ala., Nov. 29-Dec. 3, 1965, 639.

103. Id., 642.

104. Wilkins Interview by Task Force, supra n. 33 at 14.

According to Thomas, "All three of us got out. The only one that didn't get out was Eaton--I mean Lee [Wilkins]. Lee was sitting in the back seat behind me, and Eaton was sitting on my right [front passenger] and Rowe was sitting behind him." [105]

Thomas' present recollection of the seating arrangement agrees with Collie Leroy Wilkins', who maintains that the seating arrangement never changed, although the group got out of the car three times. [106] "Wherever Gene, me, and Eaton usually--the three of us run around all the time together--that's the way we always sit when there was the three of us. I kind of sit in the left back ..., Eaton always rode shotgun, and Gene usually drove." [107] "Hell, I know I was sitting behind Gene the whole way from when we left Bessemer to when we got back." [108]

These statements, however, directly conflict with Thomas' statements given to the FBI at the time of his arrest. Thomas related to the agents on March 26, 1965, that during the trip W. O. Eaton was seated in the front seat, Lee Wilkins in the right rear, and in the left rear, Tommy Rowe. [109]

105. E. Thomas Interview by Task Force, supra n. 1 at 20.

106. Wilkins Interview by Task Force, supra n. 33 at 27.

107. Id.

108. Id., 68.

109. Memorandum from MO SAC to Director, Apr. 12, 1965; HQ 44-28601-295; Task Force 3717.

Similarly, in an affidavit signed in February, 1979, Thomas states: "We chased the other car at high speed and, finally, pulled up beside it with Rowe on the driver's side in the rear. He had the other window down. He fired several shots and hit Mrs. Liuzzo." [110] When asked about the affidavit several days after signing it, Thomas replied, "I don't remember making that statement ... if I made that statement, it was a mistake, because ... he wasn't in the rear seat on the driver's side. He was on the rear seat on the passenger's side." [111] Mr. Thomas' attorney explained, "We drew that thing up that morning, and I misunderstood him when I transcribed it ... It was an honest mistake because it was done that very morning" [of the news conference] when the affidavit was released. [112]

After leaving the trooper, the men continued to Selma, stopping at the Silver Moon Cafe. [113] Thomas recalls seeing two men he recognized and having a brief conversation with one regarding Thomas' attendance at a trial that had occurred earlier in the area. [114]

110. Affidavit of Eugene Thomas, Feb. 2, 1979.

111. E. Thomas Interview by Task Force, supra n. 1 at 98-99.

112. Id.

113. Id., 14.

114. E. Thomas Interview by Task Force, supra n. 1 at 21.

After leaving the Silver Moon, they cruised around Selma for a short while, and then returned to Highway 80 for the trip home.[115]

Thomas stopped at a traffic light just short of the Edmund Pettus Bridge on the outskirts of Selma. Wilkins and Thomas remember Rowe first spotting the Liuzzo car.[116] "Gee, do you see that nigger and that white woman over there in that car together?" Rowe said.[117] Thomas looked over, and Rowe told him to follow them.[118]

Wilkins recalls Rowe telling Wilkins to get down in the back seat to keep out of their sight.[119] "It made sense to ... so we slid down where our heads would be, you know, [we] wouldn't be poking up in the air until we got over the bridge, I guess." [120]

Thomas does not recall Rowe's suggestion that they slump down in the back seat. "I just don't believe it was made." [121] Nor does he recall anyone suggesting they bump Mrs. Liuzzo's car. "All [Rowe] told me was to catch up with the car. He

115. Wilkins Interview by Task Force, supra n. 33 at 16.

116. Id., 18. E. Thomas Interview by Task Force, supra n. 1 at 22.

117. E. Thomas Interview by Task Force, supra n. 1 at 22.

118. Id.

119. Wilkins Interview by Task Force, supra n. 33 at 18.

120. Id., 19.

121. E. Thomas Interview by Task Force 58. Also see 39-40, 57.

didn't say nothing about bumping them, running them off the road or anything." [122]

Wilkins also does not recall anyone suggesting Thomas bump the car off the road: "No, he never said--he never done nothing like that ... He's too particular about it. He had it washed regularly, polished, didn't want a scratch in it ... and he would never intentionally bump somebody or run them in the side or anything else...." [123]

After crossing the Pettus Bridge, Rowe told Gene to "[p]ull up beside them, and we'll get them son-of-a-bitches." [124]

Thomas asked Rowe "what he was going to do, and he said 'I'm going to shoot that nigger' [apparently referring to Leroy Moton, the passenger in the Liuzzo car]--that's what he told me." [125] Rowe allegedly said, "We're going all the way on this one. This is what we came to get, a black and white together." [126]

Thinking that Rowe was "just bragging or going to try to scare them people or something," Thomas picked up speed in chase. [127] "He [Rowe] told me to catch the car, and that's

122. Id., 25.

123. Wilkins Interview by Task Force, supra n. 33 at 37.

124. Id., 20.

125. E. Thomas Interview by Task Force, supra n. 1 at 24.

126. Id., 41-42.

127. E. Thomas Interview by Task Force, supra n. 1 at 25.

the only way I could catch it"[128] "I had no idea he was going to shoot the nigger." [129]

Although the chase continued for some time, Wilkins had no clear idea what was about to happen. "I didn't have a clear idea until just about--soon before it happened. I mean, when--that last time when we pulled up beside them, sitting there, I knew that we weren't running that fast and that hard just to look at them." [130]

After about twenty minutes, Thomas overtook the car. According to Wilkins:

Gene said something about [how] ... they was doing about 100 miles an hour ... [A]bout the time we got beside them, Rowe rolled the window down over there and fired four or five times. [131] Rowe looked back and said, "I think I got them" ... [132] Eaton had this little old peashooter, this little old .22. I don't know if he shot it or not. Now I heard the .38 barking, but like I say, there was four or five shots, but I couldn't say for sure if Eaton shot or not. [133]

Thomas recalls, "I'm sure there was two, and I think there was three he [Rowe] fired." [134] Eaton fired shots from his

128. Id.

129. Id.

130. Wilkins Interview by Task Force, supra n. 33 at 41.

131. Id., 22.

132. Id., 23.

133. Id., 24.

134. E. Thomas Interview by Task Force, supra n. 1 at 26.

.22 revolver;[135] however, "Rowe fired first, I know, because I know the difference between a .38 and a .22," Thomas said.[136]

After the shooting, Thomas recalls Rowe saying something like, "Well I got 'em." [137] "He said something like that after we passed them and the car went off the road," Thomas recalled.[138]

Thomas slowed down to normal speed and motored on to Montgomery. Wilkins and Thomas recall agreeing not to say anything to anybody about what happened that night.[139] Wilkins remembers Rowe agreeing to a secrecy pact; however, Thomas recalls Rowe took no part in the agreement.[140]

Thomas said he kept silent because he still suspected Rowe was an FBI informant and afraid of what Rowe might do. "[I]f it hadn't been for that, when I got back to Bessemer, I think I would have reported it myself. But I was scared to say anything." [141]

The killing of Mrs. Liuzzo apparently did not bother Wilkins, "I didn't care one way or the other," and he made

135. Id.

136. Id., 26.

137. Id., 28.

138. Id.

139. Id., 29. Wilkins Interview by Task Force, supra n 33 at 60.

140. Id.

141. E. Thomas Interview by Task Force, supra n. 1 at 28.

no attempt to stop the shooting. "Actually, I was more worried about [Thomas] keeping us on the doggone road than I was anything else." [142]

After stopping at a service station in Montgomery, the four returned to the Birmingham area, and stopped at the VFW Hall for a short time, and then proceeded to Lorene's cafe. [143] Thomas remembers looking for someone at Lorene's but not finding him. Wilkins does not remember the Lorene stopover at all. [144] Thomas says they stopped there for about fifteen minutes, got back in Thomas' car, drove to Thomas' house, and parted company. [145] However, before leaving his house, Thomas recalls that Rowe "... took my gun out of his holster and put it back in mine, and [then] put his back in his holster." [146]

The next morning, Thomas sensed something was amiss. "There were four--three FBI cars sitting around the house and I knew there was something wrong then." [147]

Thomas was preparing to leave his house when his wife asked him not to take his gun. "I left it [the gun]. [148]

142. Wilkins Interview by Task Force, supra n. 33 at 41-42.

143. E. Thomas Interview by Task Force, supra n. 1 at 30.

144. Wilkins Interview by Task Force, supra n. 33 at 93-95.

145. E. Thomas Interview by Task Force, supra n. 1 at 31-32.

146. Id., 56.

147. Id., 32.

148. Id., 34.

She took it out of the house [and] put it in her Oldsmobile." [149]
Thomas says neither his wife nor his son knew of his involvement
in the Liuzzo shooting. [150]

Thomas left his home proceeding to Lorene's Cafe where he
was arrested by FBI agents. [151]

Wilkins drove to work the morning of the 26th without
suspecting that Bureau agents were following him, until he
pulled up to the drive-in window of his bank. [152] They arrested
him shortly after leaving the bank; however, Wilkins refused to
talk to them before consulting an attorney. [153]

Wilkins was arrested by SA Robert Murphy who described
the scene for the Task Force. "He [Wilkins] said, 'What are
the charges?' I said, 'Deprivation of civil rights by reason
of murder.'" [154]

Wilkins could not understand how the FBI arrested him so
quickly and began to suspect that Rowe turned him in. Several

149. Id., 33.

150. Id., 34.

151. Teletype from BH SAC to Director, Mar. 26, 1965;
BH 44-1236-11; Task Force 3656.

152. Wilkins Interview by Task Force, supra n. 33 at 49.

153. Id., 50. Report of Murphy and Schmidt, supra n. 36
at 3725.

154. Robert Murphy Interview by Task Force, Mar. 8, 1979,
Vol. II at 31.

weeks later, when Rowe surfaced as an FBI informant, his suspicions were confirmed.[155]

On the night of March 26, Thomas met klan attorney, Matt Murphy, and told him, and later attorney Art Hanes, that he had been in the car when the shots were fired.[156] Thomas remembers both Wilkins and Eaton admitting to the two attorneys that they were in Thomas' car.[157] However, Hanes recalled and stated to the FBI in May 1968 that Thomas and Wilkins "would at no time ever admit to him that they had participated in any way in the killing of Mrs. Liuzzo," and that "they would never confide in him the fact that they committed this murder, which he stated he feels they did in fact commit." Hanes did not mention to the Bureau whether or not Thomas or Wilkins told him that Rowe had fired the shots.[158]

Murphy advised against their taking the stand in the upcoming trials because, as Thomas recalls it, had they admitted to being in the car, they would have made their conviction on conspiracy and accessory charges much more likely.[159] Art Hanes followed Murphy's advice[160] after Murphy died in a
155. Wilkins Interview by Task Force, supra n. 33 at 51.

156. E. Thomas Interview by Task Force, supra n. 1 at 37.

157. Id.

158. Airtel from BH SAC to Director, May 13, 1968; BH 157-352-6348; Task Force 5019.

159. E. Thomas Interview by Task Force, supra n. 1 at 38.

160. Id., 43-44.

car accident and Hanes took over Thomas', Wilkins', and Eaton's defense.

Thomas told us that he told Bud Gordon that he had not killed Liuzzo and described his activities the day of March 25 in connection with a book Gordon wrote about the Selma march and the Liuzzo killing, entitled The Night Riders, [161] which is the only written account purporting to reflect Thomas', Wilkins', and Eaton's versions of what happened that day.

Wilkins' recollection differs from Thomas'. He cannot recall telling Gordon much about the Liuzzo killing. [162] Wilkins said, "I don't think I told him that I thought [civil rights workers] killed her; I just told him I didn't know who killed her." [163] However, The Night Riders quotes Wilkins as saying "that the civil rights workers killed that woman themselves to gain publicity, more sympathy, and more money." [164] He never told anyone, including attorneys, he said, that Rowe had killed Liuzzo until ABC newsmen interviewed him in the summer of 1978. [165] Wilkins waited until 1978 to tell the whole story, he said, because nobody had ever asked him before ABC did. [166]

161. Id., 44-45. Gordon, The Night Riders 60 (1966).

162. Wilkins Interview by Task Force, supra n. 33 at 53-54.

163. Id., 67.

164. The Night Riders, supra n. 161 at 59.

165. Wilkins Interview by Task Force, supra n. 33 at 61.

166. Id., 100.

D. Account of Leroy Moton

Gary Thomas Rowe, Jr. insists to this day that Leroy Moton was not in Mrs. Liuzzo's car the night she was murdered. The Task Force' review of FBI and Department of Justice files does not support his claims.

In the spring of 1965, nineteen-year old Leroy Moton was working for the SCLC as transportation coordinator during the Selma to Montgomery march.[1] In that capacity, he assisted marchers in finding automobile transportation to and from Selma and Montgomery.[2] Mrs. Liuzzo had allowed him to use her 1963 Oldsmobile for that purpose.[3]

When the march ended at the steps of the State Capitol Building in the afternoon of March 25th, Moton picked Mrs. Liuzzo up at St. Jude Hospital in Montgomery to return to Selma.[4] A number of people recalled seeing Moton and Liuzzo together in the car on March 25th, including several marchers whom the two picked up and delivered to several points around Montgomery and Selma that day. [5]

1. Report of SA Joseph Connors, Mar. 30, 1965; HQ 44-28601-28; at 44; Task Force 3728-84.
2. Leroy Moton Interview by CRD Attorneys James Turner and St. John Barrett, Mar. 29, 1965, located in the records of the United States Attorney (M.D. Ala.), United States v. William Orville Eaton, et al.
3. SA Connors Report, supra n. 1 at 44; Task Force 3728-84. Moton Interview by CRD Attorneys, supra n. 2.
4. Id.
5. Id., 49-51.

In the early evening, Mrs. Liuzzo and Leroy Moton made their final drop off in Selma and headed back to Montgomery. [6] As they approached the Pettus Bridge, Moton looked up at a bank building and set his watch to its clock. It was 7:34 p.m. [7]

After getting on Highway 80 East, Moton remembered noticing a car some distance behind them with its high beams on, and mentioned it to Mrs. Liuzzo. She replied, "It's probably one of ours" [8], and asked him to find a "Nashville station" on the radio. As he leaned over to turn the radio dial [9], he heard glass breaking on the driver's side, and something hit him in the face. Again, he heard glass shatter two more times, once again on the driver's side window and once in the windshield. [10] He heard no shots fired. Mrs. Liuzzo's foot was still on the accelerator, and the motor was racing. Moton's legs were crossed as he braked the car with his right foot, pulled Mrs. Liuzzo down on the seat [11], grabbed the wheel and steered the car which swerved off the road and stopped after hitting a fence. [12]

6. Id.

7. Id., 3728-85.

8. Moton Interview by CRD Attorneys, supra n. 2. There is no reference in Moton's interview statements, taken down by CRD attorneys shortly after the shooting, of a high speed chase. Moton's testimony suggests Mrs. Liuzzo had no idea she was being pursued.

9. Id.

10. Id.

11. Id.

12. Id.

Moton turned off the ignition and light switches, and said something to Mrs. Liuzzo. There was no answer. He turned and saw blood on her. He pulled her head down. She seemed unconscious.[13] He saw headlights from a car up ahead. The car pulled up to Mrs. Liuzzo's Oldsmobile, fifty feet off the road, and someone shined a flashlight in his direction. He was terrified and lay down on the seat.

He got out of the car, and tried to flag down several passing motorists.[14] No one stopped. He walked back to the Oldsmobile and passed out for about twenty-five minutes. Regaining consciousness, he again returned to the highway and once more tried to flag down cars. Again, no one stopped. [15] At this point, he broke into a run toward Montgomery.[16] After two to four miles, a truck driver finally pulled over and gave him a lift. He was carrying a group of Selma marchers.[17] Moton climbed aboard and was dropped off at Brown Chapel in Selma.[18] There, a passenger on the same truck immediately telephoned the FBI office in Selma[19],

13. Id.; SA Connors Report, supra n. 1 at 45.

14. Moton Interview by CRD Attorneys supra n. 2.

15. Id.

16. Id.

17. SA Connors Report, supra n. 1 at 42.

18. Id.

19. Id., Task Force 3728-83.

reported what Moton had told him, and was told to wait there for an immediate interview. [20]

Meanwhile, the Selma Police Department took custody of Moton and let FBI Special Agent Robert Frye interview him at the police station. [21]

Rowe maintains that Department prosecutors tried to suppress his doubts about Moton and instructed him to testify that he saw Moton in her car. [22] There is no evidence in either FBI or Department of Justice files to support this allegation.

Rowe first expressed his doubts about Moton to St. John Barrett on March 31, 1965 during Rowe's first interview with the Civil Rights Division. [23] Rowe also conveyed his doubts about Moton to his handling agent, Neil P. Shanahan, at about the time Moton was first scheduled to testify at trial. Shanahan let Civil Rights Attorney, James P. Turner, know that Rowe did not think Moton was in the car with Mrs. Liuzzo. [24] Turner informed Agent Shanahan that the FBI investigation immediately following the shooting clearly established that Moton was in the Liuzzo car. [25]

20. Id.

21. United States v. Eaton, et al. No. 11736-N, M.D. Ala., Nov. 29 - Dec. 3, 1965, 435-37.

22. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. II at 165.

23. Rowe Interview by St. John Barrett, Mar. 31, 1965, 7; Personal Papers of John Doar.

24. Airtel from Inspector James L. McGovern to Director, Nov. 17, 1965; HQ 44-28601-564; Task Force 4560-61.

25. James Turner Interview by Task Force, Feb. 24, 1979, 4.

It is important to note that in 1965 Rowe did not indicate to his FBI handling agents that Department attorneys tried to force him, as Rowe has alleged, to testify that he saw Moton in Mrs. Liuzzo's car. Civil Rights Division attorneys told him, he stated in 1965, that they would try to design the questioning in such a way as to keep the issue of Moton's identity from coming up at trial.[26] And Rowe replied that if the question of Moton's identify did come up, he would "truthfully" and "factually" describe the person he thought to be in the victim's car.[27]

This version is confirmed by a FBI document describing a meeting John Doar had with Rowe in Tampa, Florida less than a week before the Federal trial.[28] There, Doar assured Rowe that he did not consider Rowe's inability to identify Moton as the other occupant in the Liuzzo car as being harmful to the government's case, and explicitly stated that if Rowe believed Moton not to be the right man, he should so testify.[29] Rowe then asked Doar for written assurances to that effect[30], and on November 27, 1965, Mr. Doar did so:

26. Airtel from SF SAC to Director, Nov. 15, 1965; HQ 44-28601-578; Task Force 4546.

27. Id.

28. Teletype from TP to Director, Nov. 28, 1965; HQ 44-28601-605; Task Force 4625.

29. Id., 4626.

30. Id., 4627.

I don't have to tell you that the only important rule for any witness is to be truthful. If you don't remember, say so. Always testify to the facts as you believe them to be. I know from reading your file that you don't believe Leroy Moton was the Negro man in the front seat of the Liuzzo car. If you are asked about this, say so.[31]

On November 28, 1965, Inspector McGovern notified Bureau Headquarters that the letter had been delivered.[32] In February 1979, Rowe denied ever having seen it, although a FBI memorandum confirms that Doar's letter was delivered. [33]

Rowe himself has given conflicting descriptions of Mrs. Liuzzo's passenger. In his March 31 interview with Barrett, Rowe described Moton as a heavy set negro in his 30's, wearing a green wool sport coat, a necktie, white shirt and hat. [34] On November 15, 1965, Rowe told Special Agent Neil Shanahan that he was "a large Negro, with an exceptionally large neck, possibly shirt size 17, ..., " wearing a dress shirt, tie, sport coat, and a "business-type snap brim hat with a feather in the band." [35] In Rowe's book, he describes the passenger in much the same way:

31. Letter from John Doar to Rowe, Nov. 27, 1965; HQ 44-28601-628; Task Force 4622.

32. Memorandum from Inspector McGovern to Alex Rosen, Nov. 28, 1965; HQ 44-28601-602; Task Force 4624.

33. Rowe Interview by Task Force, supra n. 22 at 166-67.

34. Rowe Interview by Barrett, supra n. 23.

35. SF SAC to Director, supra n. 26. Task Force 4546.

[I]n the front seat with [Mrs. Liuzzo] was a colored man. He appeared to be a large man in his late thirties; he was wearing a green sport coat with dark checks, a white shirt and dark tie, and a black or brown felt hat. [36]

Notice that the hat is now described as being made of felt. There is no mention of a "snap brim" or "feather in the band". But in 1979, Rowe described him as wearing a Russian "Moskovitch" [sic] hat.

Question: Have you ever testified he had on a businesslike hat with a feather in it?

Rowe: No, sir. I don't believe I did. No, sir, that man had on a Russian cap that had, shiny, like a fur cap; that's what the man had on . . . [It was] black or dark brown . . . [T]here was a brim . . . [37]

Eugene Thomas' description of the passenger fits Moton. He identified him as "long", "tall", "slim", and "skinny". "I would say he might have weighed 150 pounds, maybe, or maybe 140." [38] FBI records show that in March 1965, Leroy Moton stood 6 feet 3 1/2 inches, and weighed 138 pounds. [39] A photograph taken shortly after the shooting shows he was wearing blue jeans, white sneakers, a white shirt without a tie, and a dark suit coat. [40] However, in our interview

36. Rowe's My Undercover Years, 171 (1976).

37. Rowe Interview by Task Force, supra n. 22, Vol. I at 154-55.

38. Eugene Thomas Interview by Task Force, Feb. 9, 1979, 23-24.

39. SA Connors Report, supra n. 1 at 46.

40. Id., 47.

fourteen years later, he recalled that he was wearing a blue denim, tight fitting jacket, a black knit sweater, blue jeans, and a greyish brimmed sports hat. [41]

41. Moton Interview by Task Force, Feb. 23, 1979, 2.

E. Account of Lavaughn Coleman

Former Birmingham Police Officer Lavaughn Coleman told us that he saw Rowe after the Liuzzo killing at a motel in Birmingham. To make sure no one could hear what he said, Rowe took Coleman into the bathroom, turned on the shower, and flushed the toilet. Then Rowe said, "I [or we] had to smoke a whore tonight", [1] leading Coleman to conclude that Rowe killed her. [2]

But Coleman's account to the Task Force conflicts at least in tone with what he told the FBI in 1965. Answering questions about another Bureau investigation [3], the eleven-year Birmingham police veteran admitted he had been close to Rowe for five or six years, and said that Rowe had performed an "exceptional service to the country and to the FBI by assisting them over the past several years." [4] Although not apparently asked about it, he said nothing about Rowe shooting Viola Liuzzo.

The Task Force obtained a copy of a report of an interview conducted in 1975 or 1976, of Coleman by the Birmingham Police Department. According to the report, Coleman told Birmingham authorities that when he visited Rowe in 1965, shortly after

1. Lavaughn Coleman Interview by Task Force, Feb. 2, 1979, 1.

2. Id., 2.

3. Report of SA Neil P. Shanahan of June 5, 1965 Interview, June 9, 1965; BH 174-6; HQ 62-118023 at 70.

4. Id.

the Liuzzo killing, Rowe said, in reference thereto "I had to burn a whore" and "blew my cover." [5]

However, when we interviewed Rowe, he could not recall having the conversation about which Coleman told the Birmingham Police and us. [6]

Birmingham Police Captain Jack LeGrand told us that he was the Birmingham official who conducted the above-mentioned 1975 or 1976 interview with Coleman. Captain LeGrand could not recall asking why Coleman, who was a Birmingham Police Officer in 1965, waited ten years to come forth with this information. [7]

The Task Force cannot understand how Mr. Coleman, a policeman, armed with this alleged "admission" by Rowe could remain silent while Collie Leroy Wilkins was being tried twice for the offense Coleman now claims Rowe committed.

Coleman testified in the recent Alabama grand jury which indicted Rowe for the first degree murder of Viola Liuzzo. [8]

5. Interview of Lavaughn Coleman by Birmingham Police Department, Dec. 12, 1976 (or 1975).
6. Gary Thomas Rowe Interview by Task Force, Feb. 25, 1979, Vol. II at 284.
7. Memorandum of Task Force Telephone Interview with Birmingham Police Captain Jack LeGrand, May 29, 1979.
8. Indictment of Gary Thomas Rowe, Circuit Court of Lowndes County, Alabama, Sept. 20, 1978.

F. The Federal Grand Jury

On April 5 and 6, 1965, a federal grand jury in Montgomery heard evidence concerning, among other things, the death of Viola Liuzzo. Because Rule 6(e) of the Federal Rules of Criminal Procedure prohibits public release of the evidence presented, the Task Force has chosen to summarize the proceedings in this separate section.

Thirteen witnesses, including Gary Thomas Rowe, Jr., testified. The grand jury indicted Collie Leroy Wilkins, William O. Eaton, and Eugene Thomas, for violations of 18 U.S.C. §241. We found Rowe's testimony to be noteworthy but will also mention the testimony of others which we consider important.

(1) Special Agent Neil Shanahan stated that when he met Rowe at the West End Baptist Church in the early morning of March 26, 1965, Rowe "was visibly shaken...and more shaken than I had ever seen him before...."[1]

(2) Rowe testified that at a housing project near the A.M.E. Church, Thomas handed his gun to Wilkins.[2] This is consistent with two other 1965 versions of the killing,[3] but is inconsistent with his Task Force interview.[4]

1. Transcript 99.
2. Transcript 186.
3. See Section X(B), Footnote 58.
4. See Section X(B), Footnote 62.

(3) Rowe confirmed what he had said to Department Attorney St. John Barrett earlier that week--that he told Thomas during the chase to stop the Liuzzo car so that Rowe and Wilkins could forcibly remove Mrs. Liuzzo and her passenger.[5]

(4) Rowe completely contradicts his post-1965 accounts[6] emphatically stating that, after the shooting, Thomas immediately accelerated his car and sped away.[7]

(5) Rowe said in the grand jury that he did not know whether Eaton or Wilkins hit anyone that night. He testified that, when Wilkins disposed of his pistol cartridges, Rowe "didn't know whether the people [in the Liuzzo car] were dead or injured." [8] Rowe testified that Wilkins was also unsure about whether Wilkins had hit anybody and asked Thomas to turn on the radio to find out so that they could "decide what to do with the weapons." [9]

A grand juror asked Rowe how Wilkins and Eaton missed Mrs. Liuzzo's passenger, and Rowe replied, "Ma'am, we haven't figured that out ourselves.... I really don't know how he wasn't hit." [10]

5. Transcript 191. See Section X(B), Footnotes 80-81.

6. See Section X(B), Footnotes 129-130.

7. Transcript 197-198.

8. Transcript 199.

9. Transcript 204.

10. Transcript 222.

Finally, Rowe stated that when he met with Agent Shanahan after the return from Selma, he asked Shanahan, "How many of them is [sic] dead," after Shanahan told Rowe that he had heard about a killing on the news.[11] This story conflicts with Rowe's post-1965 accounts: namely, that he saw and knew that the bullets hit and killed both Mrs. Liuzzo and her male passenger on March 25, 1965.[12]

(6) Rowe again stated, as he has always done, that he did not fire any shots that night.[13]

(7) Special Agent Lawrence Gettings testified that when he arrested Eugene Thomas the next day, Thomas told him that Wilkins rode in the right rear seat and Rowe in the left rear on the trip to Montgomery. This squares with Rowe's accounts about the seating arrangement. Gettings also testified that Thomas then told him that he had kept his .38 pistol in his glove compartment during the entire trip and that he, Thomas, did not know who had killed Viola Liuzzo.[14]

(8) The transcript shows that the grand jury wrestled with the question of who to indict. One grand juror asked the prosecutors if Rowe could be indicted.[15]

11. Transcript 206.

12. Section X(B), Footnotes 113-121.

13. Transcript 212-215. See Section X(B), Footnote 94.

14. Transcript 292-293.

15. Transcript 334.

Department Attorney St. John Barrett replied:

With respect to Mr. Rowe, of course, it is true that the Grand Jury can--has it within its power to indict anybody, I suppose.... In our presentation...and in the proposed indictment, Mr. Rowe has not been named, and he has not been named for the simple reason that in our judgement he has committed no violation of Federal law. You can disagree with us. You can return such an indictment that you see is proper.[16]

The grand juror's question was prompted by the United States Attorney's comment during the grand jury proceedings that the proposed indictment contained four names on it--Wilkins, Thomas, and Eaton (the three who were subsequently indicted), as well as Rowe's superior in the klan, Robert Thomas.[17]

Another grand juror raised the possibility of indicting Rowe in order to dispel suspicion that Rowe was providing information to the FBI.[18] However, Barrett apparently convinced the grand jury that indicting Rowe would probably cause Rowe, as a defendant, not to testify against the others. Although the transcript does not contain the grand jury's private deliberations, their comments to the prosecutors do not indicate that they seriously considered indicting Rowe, either along with, or in place of, Wilkins, Thomas, and Eaton.

16. Transcript 334-335.

17. Transcript 326, 334.

18. Transcript 337.

G. Physical Evidence

Viola Liuzzo's car was discovered by Alabama State Highway Patrol Troopers H. L. Burgess and Tommy McGhee.[1] They arrived at the scene around 8:30 p.m. after receiving a report of an automobile accident on Highway 80, and when they saw her body, immediately called their supervisor to send a state investigator.[2] While peering through the left side window with a flashlight, Trooper Burgess noticed what appeared to be a bullet lying on the rear floor near the driver's side.[3] He picked it up and turned it over to State Investigator E. J. Dixon. The bullet was later given to FBI laboratory examiner Marion Williams who forwarded it to the FBI laboratory in Washington.[4]

At 9:30 p.m., FBI Inspector Joseph Sullivan and Special Agent Clifton Browning, Jr., of the Selma office, arrived at the scene and conducted an initial investigation. They found a driver's license on the body and identified the victim as Viola Liuzzo.[5] Due to the large quantity of blood on the

1. Memorandum from MO SAC to Director, Apr. 12, 1965; Task Force 3821.
2. Id.
3. Report of SA Joseph R. Connors, Mar. 30, 1965; HQ 44-28601-28 at 92.
4. Id., 93.
5. Id., 58.

body and in the car, the investigators had difficulty determining the extent of her injuries, however, they immediately suspected she had been shot in the left temple with a pistol or rifle bullet.[6]

According to the Bureau, the area around the vehicle "was searched in a terrain-type search, chartered [sic], photographed, and minutely examined with a view to the development of all possible evidentiary character which remained on the scene." [7]

As seen from FBI photographs and sketches, the killing occurred on a straight stretch of Highway 80, 27.5 miles from Selma.[8] When the shooting occurred, the Liuzzo car was travelling up a slight incline, and after the shots were fired, it veered off to the right, crossed a ditch, and travelled over an open area for 252' 11", before coming to a stop at a barbed wire fence approximately 50' from the highway.[9] Between the highway and the fence, there were no visible obstructions, bushes or trees.[10] This contradicts Rowe's statement that Wilkins climbed down a ravine and through bushes to look into the car when they returned after the shooting.[11]

6. Id., 58, 60.

7. MO SAC to Director, supra n. 1 at 3818.

8. SA Connors Report, supra n. 3 at 60.

9. Id., 63.

10. Id.; Photographs of crime scene.

11. Deposition of Gary T. Rowe, Jr., Senate Select Committee to Study Government Operations with Respect to Intelligence Activities, Oct. 17, 1965, 45.

By March 27, 1965, the FBI laboratory examiner was able to determine that at least five shots were fired into the 1963 Oldsmobile driven by Liuzzo, two striking the car below window level, two passing through the windshield and at least one passing through the window next to Liuzzo.[12] The examiner recovered nine lead fragments and one mutilated lead bullet from inside the car.[13] Agent Williams personally transported these specimens along with portions of the Liuzzo car to the FBI laboratory in Washington, D. C.[14]

Mrs. Liuzzo's body was taken to White Hall Mortuary in Montgomery, Alabama,[15] where an autopsy was performed at midnight on March 25, 1965. Dr. Paul Shoffeitt, Director of the State Department of Toxicology and Criminal Investigation,[16] recovered one lead bullet lodged within the spinal cord at the base of Liuzzo's brain. The spinal cord had been almost completely severed,[17] causing almost instantaneous death.[18]

12. MO SAC to Director, supra n. 1 at 3818-19.

13. Id., 3820.

14. SA Connors Report, supra n. 3 at 83, Task Force 3820.

15. Id., 59.

16. Report of SA Connors, Apr. 1, 1965; HQ 44-28601-82 at 41, Task Force 3736.

17. Id.

18. Id.; SA Connors Report, supra n. 3 at 89.

In order to find the spent cartridges Rowe said had been thrown out of the window after the shooting,[19] FBI and State Investigators conducted an extensive search of the highway near the scene and discovered six .38 special cartridges and one .22 cartridge case,[20] which were immediately forwarded to the FBI laboratory for examination.[21]

Shortly after arresting Eugene Thomas, the FBI obtained a warrant to search his house.[22] They seized a snub-nosed .38 caliber revolver (belonging to Thomas' wife), some ammunition, and another .38 caliber pistol in Mrs. Thomas' car, a 1958 Oldsmobile parked in front of the house.[23] Eugene's son led Special Agent Edward Lahey to his mother's car, reached into the glove compartment, and handed Special Agent Lahey the .38 caliber pistol.[24]

The FBI laboratory clearly established that the bullet recovered from Liuzzo's body and the two lead bullets recovered from her car were fired from the .38 Special Smith and Wesson

19. Report of SA Shanahan, Mar. 25, 1965; BH 44-1236-60; Task Force 3728-35.

20. SA Connors Report, supra n. 3 at 72-75.

21. Airtel from MO SAC to Director, Mar. 29, 1965; HQ 44-28601-34.

22. SA Connors Report, supra n. 16 at 31.

23. Id.

24. Id.

revolver found in Mrs. Thomas' car.[25] The laboratory also established that five of the .38 caliber cartridge casings, located about one half mile from the car,[26] were also fired from Thomas' gun.[27]

No prints were ever taken from Thomas' gun or the five spent cartridges. Laboratory examiner Williams testified that he was not requested to check for fingerprints.[28]

When Director Hoover discovered that no prints were taken from the gun, he immediately asked, in a handwritten note on a Mobile office telegram, for an explanation.[29] Special Agent Lahey explained that Eugene's son:

"grabbed the weapon by the butt, pulled it out and handed it to me. He told me his mother had wiped the gun off. I looked at the weapon, noticed how it shone, and noted it was obvious this gun had been wiped clean. No smudge marks were on the gun." [30]

25. Teletype from Director to MO, SAC Mar. 29, 1965; HQ 44-28601-90; Task Force 3728-45.
26. Teletype from MO SAC to Director, Mar. 29, 1965; HQ 44-28601-100; Task Force 3728-51.
27. Report of SA Robert Frye, Apr. 3, 1965; MO 44-1245; CRD 144-2-470 § 5.
28. State v. Wilkins, No. 155, Circuit Court of Lowndes County, Alabama, May 1965; CRD 1442470 § 7. (Marion Williams Testimony.)
29. MO SAC to Director, May 6, 1965; HQ 44-28601-390; Task Force 4014.
30. SA Edward M. Lahey to BH SAC, May 6, 1965; BH 44-1236-397; Task Force 4004A.

Lahey's explanation was forwarded to Bureau Headquarters.[31]

Hoover was not satisfied. On the margin of a newspaper account of the trial, he noted, "Henceforth, I want all tests made as a routine procedure. This will protect us from charges of not thoroughly and penetratively conducting our investigations." [32]

Assistant to the Director Alan H. Belmont contacted Birmingham on May 7 to discuss the fingerprint issue and specifically asked whether Special Agent Lahey had been given an opportunity to testify that the gun had been wiped clean.[33] Checking into the matter, ASAC Jensen called Belmont later in the day to report that: (1) Lahey had told the state prosecutor, Arthur Gamble, before testifying that the gun had been wiped and that he had examined it in the sunlight and saw no smudges; (2) Gamble confirmed Lahey's statements and was fully aware that a fingerprint was not necessary under the circumstances; and (3) Gamble stated that, if the matter was not clarified at the trial, it was his error.[34]

Shortly afterward, the Birmingham field office prepared a memorandum for Headquarters which restated Lahey's explanation

31. Teletype from BH SAC to Director, May 6, 1965; BH 44-1236-394; Task Force 4003.

32. HQ 44-28601-393; Task Force 4016.

33. Memorandum from ASAC Robert Jensen to BH SAC, May 7, 1965; BH 44-1236-411; Task Force 4017.

34. Id., 4017-18.

for not taking prints and further concluded that the spent cartridges could not be tested because rain and fertilizer had washed the prints away.[35]

Mr. Alex Rosen, former Assistant Director for the General Investigation Division, explained to the Task Force that it was standard operating procedure to fingerprint the gun.[36] Informed that the agent who examined the gun said it appeared to be clean, Rosen replied, "Well it would have to be checked by the lab to see if it was cleaned ... we wouldn't take his word for it." [37] Rosen said he did not know what the written instructions were at the time.[38]

The FBI Agents Manual in force in 1965 reads: "Search all surfaces and articles for latents [fingerprints] at the crime scene. Remember articles recovered at a distance from crime scene may have latents." [39] The Manual did not further specify what this fingerprint search entailed.

Mr. Bell Herndon, currently Acting Assistant Director of the FBI Laboratory, explained that a fingerprint check was then only performed when an agent asked for one. There was no set

35. Memorandum from Alex Rosen to Alan Belmont, May 7, 1965; HQ 44-28601-3; Task Force 4021.

36. Alex Rosen Interview by Task Force, Mar. 8, 1979, 136.

37. Id., 134.

38. Id.

39. FBI Handbook for Special Agents, Part II, Chapter 3, Sec. 19.

rule requiring a latent test to be performed without a request, according to Herndon. However, laboratory examiners were allowed to perform such tests at their own discretion.[40]

At the time Eugene Thomas was arrested, an agent found a misfired, shaved-down .22 caliber long rifle cartridge, lodged in the passenger door window of Thomas' car between the glass and the door frame.[41] According to the other three, W. O. Eaton was sitting on the passenger side of the Thomas car.[42] Rowe and Thomas stated in their interviews with the Task Force[43] that Eaton fired a .22 caliber pistol. Rowe stated the gun was loaded with shaved-down cartridges.[44]

After Eaton was arrested on March 26, agents searched his home and found a .22 caliber six-shot revolver loaded with six .22 caliber bullets.[45] The FBI determined that Eaton's .22 caliber pistol had not fired the .22 caliber casings found

40. Bell Herndon, Interview by Task Force, Apr. 17, 1979.

41. Report of ASAC Jensen, Mar. 30, 1965; HQ 44-28601-36 at 15.

42. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. I at 124. Eugene Thomas Interview by Task Force, Feb. 9, 1979, 20. Collie Leroy Wilkins Interview by Task Force, Feb. 9, 1979, 27.

43. Rowe Interview by Task Force, supra n. 42, Vol. I at 183. E. Thomas Interview by Task Force, supra n. 42 at 26.

44. Report of Rowe to SA James L. McGovern, SA Melton L. Alexander, SA Neil P. Shanahan, and SA John T. Downey, Mar. 26, 1965; BH 44-1236; Task Force 3728-65.

45. Report of SA Shaughnessy, SA Doyle, SA Gettings, SA Marshall, and SA Collier, Mar. 26, 1965; BH 44-1236; Task Force 3721.

on Thomas' car and along the highway a short distance from the murder scene.[46] Nor could the FBI positively connect Eaton's .22 to any of the lead fragments found in the Liuzzo car.[47]

However, Laboratory Examiner Williams testified at the trial that the bullet marks found below Mrs. Liuzzo's window were made by bullets smaller than a .38 caliber, which suggests that the holes were made from Eaton's .22.

Eaton's wife contacted the Bureau after her husband's death on March 9, 1966, and told interviewing agents that when the FBI searched her home, they found the wrong gun. She said that her husband had taken the pistol he used in the shooting to a friend in Concord, Alabama, who melted it down in an iron furnace and buried it in his yard.[48]

When Rowe reported the shooting to Special Agent Shanahan, he turned over his .38 caliber revolver fully loaded and asked Shanahan to check to see if it had been recently fired.[49] Birmingham agents smelled the gun and reported no signs of gunpowder.[50] A dry cotton patch was passed through the

46. Report of SA Frye, supra n. 27.

47. Id.

48. Memorandum from SA A. J. Gilson to BH SAC, Apr. 8, 1966; BH 44-1236-848; Task Force 4820-21.

49. Report of SA Shanahan, Mar. 26, 1965; BH 170-9-378; Task Force 3728.

50. Teletype from BH to Director and MO, Mar. 26, 1965; HQ 44-28601-9, 60.

barrel and picked up a little dirt, but according to the Birmingham office, not enough to indicate that the gun had been recently fired.[51] The Bureau laboratory report indicated that none of the guns seized, with the exception of the .38 caliber revolver belonging to Thomas' wife, had been cleaned from the time of their last firing.[52]

The evidence conclusively shows that Thomas' gun fired the fatal shot, as well as at least two other shots into the car. The FBI could establish no other physical evidence connecting any other gun to the lead fragments found in Mrs. Liuzzo's body or her car.

Records in the Birmingham field office indicate that Eaton's .22 caliber pistol, Rowe's .38 caliber pistol, and Thomas' .38 caliber pistol which killed Liuzzo were destroyed, although the office does not know how or when.[53]

51. Id.

52. Report of SA Frye, supra n. 27.

53. BH 44-1236-1B1, 2, 4.

XI. THE PROSECUTION OF U.S. v. EATON et al.

A. What Civil Rights Division Attorneys Knew About Rowe From the FBI

Attorney General Nicholas Katzenbach assigned the Liuzzo case to John Doar, Assistant Attorney General for the Civil Rights Division, along with two other Civil Rights Division attorneys, St. John Barrett and James Turner.[1]

On March 30, 1965, Doar asked the FBI to provide him "a summary of the available background information" on Wilkins, Thomas, Eaton, and Rowe.

This summary should include information concerning the past Ku Klux Klan activity, other anti-civil rights activity and any acts of violence or threatened violence engaged in by these subjects or with which these subjects may be connected.[2]

The next day, the Bureau sent over to the Civil Rights Division a partial response which cannot now be located in either FBI or Civil Rights Division files. The contents of this March 31 response were outlined in an FBI memorandum, however, stating that the information Assistant Attorney General Doar had asked for was "already available to him." [3]

1. CRD, 144-2-470, Section 3.
2. Memorandum from John Doar to Director, Mar. 30, 1965; HQ 44-28601-111; Task Force 3741.
3. Memorandum from F. J. Baumgardner to W. C. Sullivan, Mar. 31, 1965; HQ 44-28601-140; Task Force 3728-143.

We are and have been furnishing the Department on a continuous basis reports on Klan organizations. These reports are received every 90 days, are processed promptly, and disseminated to both the Civil Rights and Internal Security Divisions of the Department. Between reports, we disseminate to these Divisions a constant flow of memoranda incorporating the most current and pertinent information received from our field divisions. From February 1, 1965, to March 30, 1965, for example, we disseminated to the Department some 500 reports and memoranda on the Klan and hate-type groups. Therefore, to comply with Doar's request, it is only necessary to refer him specifically to the reports in specific cases previously furnished to the Department. These reports, prepared contemporaneously with Klan activities, already provide the Department with a chronology of Klan action and information regarding Klan leaders and activists.[4]

The Bureau had previously provided Doar with a memorandum, dated March 30, 1965, with what they termed "pertinent information in our files concerning the subjects in this case." [5] But the information on Rowe included only his date of initiation in the klan, June 1960; the office he held, Assistant Province Investigator and member of the klavern security guard; his arrest in 1963 near Tuscaloosa, Alabama, for carrying concealed weapons; a sentence stating Rowe accompanied Thomas and other klansmen to the Flame Club (without elaborating on the incident); and a list of weapons Rowe had acquired, an M1 and M2 rifle, two .22 caliber rifles, a .45 caliber carbine and a .38 caliber pistol.[6]

4. Id.

5. Memorandum from Director to Doar, Mar. 30, 1965; HQ 44-28601-50.

6. Id.

There was no mention that Rowe had ever been part of the klan's "violent action squad," had penetrated the inner circles of the UKA, or had participated in the other violence outlined elsewhere in this report.[7]

Also on March 30, 1965, St. John Barrett visited the Birmingham field office and informed the SAC that he wanted to interview Rowe and to review information the office had on his past association with klansmen and the information on klan violent activities which Rowe provided the Bureau as an informant. Barrett also asked to review "everything available to the Birmingham office as it relates to instant case, regardless of its present form ..." and to interview the agents preparing the report. He requested "the material relating to the arrests of the four subjects," the information obtained from, and the circumstances surrounding, the FBI searches following the arrests, and finally, the FBI Laboratory report on the case's physical evidence.[8]

Two days later, on April 1, 1965, Barrett asked the Birmingham office for the information Rowe reported to the Bureau on the UKA's plans for the Selma to Montgomery freedom march.[9] Birmingham immediately responded with an eight-page report on what Rowe

7. Memorandum from Alex Rosen to Alan Belmont, Mar. 26, 1965; HQ 44-28601-144; Task Force 3698.
8. Memorandum from ASAC Robert Jensen to BH SAC, Mar. 30, 1965; BH 44-1236-102; Task Force 3728-71 to 3728-72.
9. Airtel from BH SAC to Director, Apr. 1, 1965; HQ 44-28601-207; Task Force 3753.

furnished the FBI from March 16 to 26, 1965. This memorandum merely summarized his discussions with klansmen about the freedom march which Rowe had reported to the FBI. There was no suggestion that the shooting of a civil rights worker was planned.[10]

On March 31, 1965, Barrett arranged to interview Rowe for five hours.[11] According to Barrett's memorandum of the interview, Rowe's description of the events of March 25 generally correspond with the other statements he had previously given the FBI; however, Barrett's account is much more detailed. There is no record that Barrett questioned Rowe about his activities as a klan informant.[12] According to the Bureau, Barrett was "highly impressed with the caliber of the informant." [13] Barrett did say that "additional information will be requested of the Bureau to establish a conspiracy, particularly as it would relate to Robert Shelton, Imperial Wizard; Robert Creel, Grand Dragon; and Robert Thomas, Grand Titan." [14]

It is clear that the Civil Rights Division requests for information were primarily directed toward developing a conspiracy indictment against the subjects, and not necessarily to obtain background information on Rowe.

10. Id.

11. Teletype from BH SAC to Director, Mar. 31, 1965; BH 44-28601-172; Task Force 3750.

12. Interview of Gary T. Rowe by St. John Barrett, Apr. 1, 1965.

13. BH SAC to Director, supra n. 11 at 3750.

14. Id., 3751.

This is borne out by the lead paragraph of a November 13, 1965, request by Doar for additional information. "It should be noted that because of its nature the scope of this conspiracy case may be much broader than that presented by the State [of Alabama] in its murder prosecutions, and therefore the requested investigation deals with some events not directly connected with the shooting." [15] Doar was still following this line of inquiry on November 20 when he asked for still more information. [16] Of the nine separate requests for information, only two related to Rowe. One was for information on the disposition of the bullets in Rowe's gun, and the other asked who answered Rowe's initial telephone call to the Bureau on March 25. Neither was concerned with Rowe's character or past history. [17]

Doar apparently believed the Bureau had cooperated completely with his request for background information on Rowe and other klansmen. [18] The Task Force asked Doar "[D]o you think they

15. Memorandum from Doar to Director, Nov. 13, 1965; HQ 44-28601-552; Task Force 4535.

16. Memorandum from Doar to Director, Nov. 20, 1965; HQ 44-28601-568; Task Force 4572-73A.

17. Id., 4573.

18. John Doar Interview by Task Force, Mar. 27, 1979, 8.

[Bureau] provided you with everything in the file that was pertinent to the prosecution or to Rowe's credibility at the time." [19]

"Well, I didn't think otherwise at the time," Doar answered. [20]

Barrett is not that definite. He recalls asking for everything in the Bureau files about Rowe. However, Barrett does not remember getting any of Rowe's informant reports nor having access to Rowe's informant file. [21] Because of "institutional practices of the FBI," Barrett admitted he never expected the Bureau would provide it. [22]

The Bureau did provide numerous investigative reports and other documents to the Civil Rights attorneys; [23] however, they all related to Mrs. Liuzzo or the Liuzzo killing and hardly mentioned Rowe's background.

19. Id.

20. Id.

21. St. John Barrett Interview by Task Force, Feb. 16, 1979, 9.

22. Id.

23. Report of ASAC Jensen, Mar. 30, 1965; HQ 44-28601-36; Task Force 3728-112. Report of SA Joseph R. Connors, Mar. 30, 1965; HQ 44-28601-28; Task Force 3728-76. Memorandum from Director to Doar, Apr. 1, 1965; HQ 44-28601-111; Task Force 3739. Report of SA Connors, Apr. 1, 1965; HQ 44-28601-82; Task Force 3731. Report of SA Mahlon Collier, Apr. 1, 1965; HQ 44-28601-117; Task Force 3742. Airtel from BH SAC to Director, Apr. 1, 1965; HQ 44-28601-207; Task Force 3753. Report of SA Allen Gilson, Apr. 1, 1965; HQ 157-2899-1; Task Force 3761. Airtel from BH SAC to Director, Apr. 2, 1965; HQ 157-2917-1; Task Force 3773. Report of SA Robert Frye, Apr. 3, 1965; HQ 44-28601-294; CRD 144-2-470, §5. Report of ASAC Jensen, Apr. 5, 1965; BH 44-1236; CRD 144-2-470, §5. Airtel from BH SAC to Director, Apr. 14, 1965; HQ 44-28601-209; Task Force 2864. Airtel from BH SAC to Director Apr. 29, 1965; HQ 44-28601-283; Task Force 3971. Airtel from BH SAC to Director, Apr. 30, 1965; HQ 44-28601-281; Task Force 3982.

The Bureau had provided the Civil Rights Division with at least 39 volumes of material on the United Klans of America. In an attempt to find evidence tying Wilkins, Eaton, and Thomas to other criminal acts, a Division record analyst examined nine volumes in 1965. The researcher reported to her superiors that on one occasion Rowe delivered blasting caps to a Bessemer klansman named "Big John," who in turn passed them along to a Georgia Klansman. [24] She also reported that Rowe travelled with several Eastview klansmen on April 14, 1965, to do "missionary work" at an integrated baseball field [25] and that Rowe was part of a klan group which planned to beat up a splinter klan organization. [26] There is nothing in Civil Rights Division or FBI files to indicate that this information caused the Civil Rights prosecutors to inquire further into Rowe's violent activities or to question his credibility.

It is clear that the Bureau, both at Headquarters and in Birmingham, did not provide all pertinent information about Rowe, not only from his three volume informant file, but also from the informant files of others who were in a

24. Memorandum from Maureen McGrath to James Turner, Nov. 15, 1965; CRD 144-2-470.

25. Id.

26. Id.

position to report on Rowe's activities. Whether John Doar and his assistants were denied information about Rowe which they needed in order to make an informed and intelligent evaluation about Rowe's character and credibility and to prepare for the defense's cross-examination of Rowe must remain a matter of conjecture.

B. What the FBI and the Civil Rights Division Knew About Rowe's Apparently Untrue Statements

An examination of Rowe's testimony in the second state murder trial and the Federal civil rights trial strongly suggests that Rowe lied under oath in both trials. We were unable to determine with certainty whether Civil Rights Division attorneys knew about it, however.

In the second murder trial, Rowe testified that he was present at the Trailways bus station on Mothers Day, 1961, but that he committed no violence there.[1] Defense attorney Arthur Hanes showed him a picture from the March 2, 1963, edition of the Saturday Evening Post. The Post picture covers the same scene as the front page picture displayed in the May 15, 1961, Birmingham Post-Herald, and as we described in Chapter V at note 35, shows Rowe grabbing a Freedom Rider while others beat him with fists and pipes. Hanes asked Rowe if he was in the picture. Rowe vigorously denied he was [2] and repeated this denial at the Federal civil rights trial when asked the same question.[3]

1. State v. Wilkins No. 155, Circuit Court of Lowndes County, Alabama, Oct. 18, 1965, 508. (Rowe Testimony) [Hereinafter Trial 2]

2. Id., 510.

3. U.S. v. Eaton, et al., No. 11, 736-N, M.D., Ala., Nov. 29-Dec. 3, 1965, 288-89 [Hereinafter Trial 3].

In October 1975, before the staff of the Senate Select Committee on Intelligence, Rowe admitted that he was in fact pictured in the photograph[4] and then went on to describe how the FBI prepared him to respond to questions about the picture.

Question: What did the FBI tell you with respect to that picture of you?

Rowe: Quote, "We're all in a bunch of shit. The Big Man is going to have a nervous breakdown when he sees this. Now, here's what you've got to do, to the day you die--I don't care if The Man himself tells you, 'Goddamnit, Gary Thomas Rowe, Jr., I know that's you'--you're going to look at him, straight in the eye and say, 'No, sir. That's not me. That's Arnie Cagle.'"

Question: Now, "The Man" refers to whom?

Rowe: A klansman that was in the ---.

Question: No, I'm sorry. You said that the FBI agent told you, if The Man ever comes and asks you ...

Rowe: I'm sorry. The Man, through the years, was referred to as Mr. Hoover.

Question: The FBI agents were asking you to always maintain that that picture was of a man who resembled you, who was also a klan member, but was not you?

Rowe: That is correct, until the day I die.

Question: I see.[5]

And in his interview with the Task Force, Rowe admitted committing violence at Trailways.

4. Deposition of Gary Thomas Rowe, Jr., Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Oct. 17, 1975, 26-30. [Hereinafter Senate Select]

5. Id., 30.

Question: Did you get involved in any fisticuffs?

Rowe: Yes, sir, I did. Yes, sir, I did. The fight was going pretty good, and it was just--everybody was fighting at this time. It was just a damn--really a free-for-all. I mean, clubs--you can't believe this--whites was hitting whites. I mean, everybody was just swinging, and whatever in the hell you could find was hit.[6]

* * *

Question: Do you remember hitting anybody? Who do you remember hitting in that bus station--Trailways bus station?

Rowe: Sir, I can't tell you the names. I probably hit half a dozen, a dozen people, in there.[7]

We also questioned Rowe about the photograph, and he admitted being pictured in it.

Question: Did you ever discuss that photograph with the FBI?

Rowe: Yes, sir.

Question: And what did they tell you?

Rowe: They told me, to the day I die, if I live to be 99 years old, again, said, "The old man's going to shit. He's going to climb the wall."

He said, "Who does that look like to you?"

And I said, "Me."

And he said, "Just think very carefully. Who else does that look like besides you."

And I looked at it, and I said, "I tell you the truth, kind of like Cagle."

He said, "That's it, Cagle." He says, "To the day you die, if you're 99 goddamn years old, I don't care who asks you--if the Director comes down and looks you in the eye and says, 'Who's that?'--you're telling me now, that's Cagle." [8]

6. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. II at 105.

7. Id., Vol. II at 106.

8. Id., Vol. II at 107.

When asked why he testified in two previous trials that he was not involved at Trailways and not pictured in the photograph he was shown, he replied, "To be quite frank with you, because I was told to." [9] "By the Bureau?" He replied, "Yes, sir." [10]

On the basis of his own admission, it is difficult not to conclude that Rowe apparently lied on the stand in both the second state and the Federal trial.

Rowe's handling agents today deny coaching Rowe about this picture. Barrett Kemp, Rowe's handling agent in May, 1961, could not recall ever seeing the photograph, although FBI records do suggest, however, that he did in fact examine it. [11] Byron McFall vaguely recalled the photograph and denied ever instructing Rowe to say he was not in the picture or to tell others that the person resembling Rowe was Charles Arnie Cagle. [12]

Special Agent Brooke Blake recalls the photograph in question, but could not remember when he first learned of its existence. [13] He said he never heard anyone tell Rowe that he should deny he

9. Id., Vol. II at 154.

10. Id., Vol. II at 154-55.

11. Memorandum from SA Barrett Kemp to BH SAC, May 15, 1961; BH 170-9-SF-48; Task Force 402. Memorandum from SA Kemp to BH SAC, May 17, 1961; BH 149-16-53; Task Force 431-32.

12. Byron McFall Interview by Task Force, Mar. 7, 1979, 67, 70.

13. J. Brooke Blake Interview by Task Force, Feb. 22, 1979, Vol. I at 21-22.

was in the picture or that the Director would be upset if he knew Rowe was in it.[14]

Agent Neil Shanahan, who was Rowe's handling agent at the time of the trial, stated that he could not recall discussing the picture with Rowe, but acknowledged that he had seen it before and agreed, when shown a copy, that Rowe appeared to be in the picture.[15] Shanahan does recall Rowe telling him that someone in the FBI advised him to lie about being in the picture.

"I heard [Rowe] say that the FBI told him that he should never reveal himself as being in the picture, number one. I heard him tell the story that somebody told him that he should tell everybody that that's a picture of Charles Cagle, number two." [16]

* * *

Question: What was your reaction when he told you that he was told by the Bureau never to admit that he was in the picture?

Shanahan: Probably I wasn't ... I didn't react at all.[17]

Shanahan reacted with surprise upon hearing that Rowe testified about the picture at trial.[18] He told the Task Force that "I was never aware from Tommy Rowe or anyone else that this picture

14. Id., Vol. I at 23.

15. Neil P. Shanahan Interview by Task Force, Feb. 27, 1979, 242.

16. Id., 246-47.

17. Id., 245.

18. Id., 247.

was shown to [Rowe] at the trial." [19] Indeed, Shanahan was sequestered as a witness throughout the Federal trial. [20]

The Civil Rights Division attorneys who were assigned to the Federal case, John Doar, James Turner, and St. John Barrett, said that they were unaware that Rowe committed violence at Trailways or that Rowe appeared in the Post photograph introduced at the trials. [21] Turner stated even if they had known he was involved in violence at Trailways, "We would have understood his actions," [22] explaining that Rowe may have committed violence in order to keep the klan from knowing he was an FBI informant. [23]

John Doar could not remember if he was shown the picture at the Federal trial, although the record clearly reflects that he did in fact look at it. [24] Nor could he recall ever showing the picture to Rowe. [25] Neither Doar nor Rowe could recall ever talking to each other about Rowe's involvement at the Trailways

19. Id.

20. Id., 245.

21. James Turner Interview by Task Force, Feb. 14, 1979, 6.
John Doar Interview by Task Force, Mar. 27, 1979, 29-31.
St. John Barrett Interview by Task Force, Feb. 16, 1979, 10-11.

22. Turner Interview by Task Force, supra n. 21 at 6.

23. Id.

24. Trial 3, 287.

25. Doar Interview by Task Force, supra n. 21 at 31.

bus station.[26] When asked if he had any reason to believe, either before or during the Federal trial, that Rowe was in the photograph, Doar replied that he "[did not] have any recollection of it." [27]

Doar said he did not expect the FBI to inform him that Rowe was, in fact, in the picture because he could not remember asking them.[28] However, a complete copy of Rowe's testimony at the second murder trial [in which Rowe was asked about the Trailways picture] apparently was made available to the Civil Rights Division immediately before the Federal trial.[29]

The only record located in Civil Rights Division regarding Rowe's activity at Trailways was a portion of a memorandum received by the Department on May 19, 1961, stating that Rowe was one of three men who "accosted Clancy Lake, television news director, as Lake was broadcasting from his car during the disturbance" [30]

There is no indication that the attorneys trying the Eaton case were made aware of the information after the killing or that the Bureau informed the Civil Rights Division of the records on Trailways in their files.

26. Id.; Rowe Interview by Task Force, supra n. 6, Vol. II at 144.

27. Doar Interview by Task Force, supra n. 21 at 31.

28. Id., 32.

29. CRD 144-2-470, § 8.

30. Memorandum from Director to Attorney General, May 17, 1961, CRD 144-1-554, § 1B.

C. Why the Department and the FBI Never Suspected Rowe in the Liuzzo Killing

Inspector James McGovern of the Birmingham office said he never suspected Rowe in the Liuzzo killing because of Rowe's "almost immediate contact with Shanahan, the candid way in which he discussed [the killing], [and] the fact that the evidence which was located by the FBI was where he said it would be." [1] However, McGovern said that Rowe "certainly was a person who was involved. He was there. I recognized that. I think everyone recognized that. He was subject to prosecution the same as the other three. In that sense, he was not only a suspect, he was a subject But his testimony was recognized as necessary to the Government's case, if it could be corroborated." [2]

When former agent Melton Alexander was asked if anyone in the FBI suspected that Rowe fired the fatal shots, he answered:

Well, the question arises, there was not an FBI agent in that car. We don't have a disinterested third-party credible witness. We have a man who has furnished information predominantly reliable in the past, who reports faithfully, who has not turned on the FBI or done things that make you think an informant is playing both ends. The decision is made, at least in this stage, to

1. James L. McGovern Interview by Task Force, Feb. 23, 1979, 46.
2. Id., 47.

accept or reject. I don't think anybody ever made the conscious determination in our minds that Rowe could not have fired the gun, and did not. However, we had no positive evidence to the fact he did fire, or pull the trigger. Now, here is where you come, the prosecutor's determination is who you are going to prosecute. And the Assistant Attorney General in the Civil Rights Division made his decision: We carve Rowe out and he's going to be our witness. We're going to prosecute A, B and C and D, Rowe will not get prosecuted; he'll be our witness. So that's when the prosecutor's determination was made as to who to accept or reject credibility.

Now, as to whether I ever heard anybody at FBI say, "I believe Rowe shot," or "I positively believe he did not," the answer is no; I don't know that anybody ever said that.[3]

Rowe's last handling agent, Neil Shanahan, confirms Alexander's recollection that no one suspected Rowe.[4] Nor did the Justice Department prosecutors. St. John Barrett, who interviewed Rowe for five hours on March 31, admitted he was troubled that Rowe was in the car and did nothing to stop the shooting.[5] Nonetheless, Barrett concedes that the trial team was caught up in trying to corroborate Rowe's story, rather than to destroy it. "The fact was, Rowe was our witness." [6]

However, Barrett believed that Rowe was telling the truth. He found Rowe's story consistent, detailed and very concrete.

3. Melton Alexander Interview by Task Force, Mar. 1, 1979, 79-80.
4. Neil P. Shanahan Interview by Task Force, Feb. 22, 1979, 251.
5. St. John Barrett Interview by Task Force, Feb. 16, 1979, 6.
6. Id., 7.

"Rowe knew pretty well most things, but he also didn't mind saying when he didn't know an answer." [7] Rowe's story "hung together well." [8]

James Turner, another Civil Rights Division attorney, saw no reason to disbelieve Rowe, based primarily on the fact that Rowe notified Shanahan before taking the trip. [9] Turner remembered Rowe telling a consistent story to the prosecutors. [10]

John Doar invited the Task Force to review his personal papers on the Liuzzo killing. One page contained the following notes in Doar's handwriting: "We just drove up and going to scare people in car. Rowe fired gun. Tommy Rowe pulled out gun and fired," and on another page Doar wrote: "Even if Rowe did the shooting, people are all guilty."

When asked about these notes, Mr. Doar explained that he was concerned about a defense strategy alleging Rowe was the killer and posed the hypothetical statements himself to help prepare his case. Doar stated he had no reason to think the strategy would be used--he was just trying to anticipate possible defenses. Doar also was unaware of any facts or of opinions to indicate Rowe had in fact fired the fatal shots.

7. Id., 5.

8. Id.

9. James Turner Interview by Task Force, Feb. 14, 1979, 5.

10. Id., 7.

Question: There was never any doubt in your mind that he was telling the truth?

Doar: No, I believed him. I believed he was telling the truth then, yes.[11]

Question: Do you remember if there was any belief within the Department or the FBI, as to what should be done to refute the possibility that Rowe may have fired those shots, or is it that nobody even thought about it?

Doar: The evidence that I remember was that the gun was recovered from Thomas, and that was the gun that ballistic tests tied in with the shooting. There wasn't any evidence that Rowe had done the shooting. There was never any effort to prove that he did or he didn't. I mean, we just proved what we understood to be the facts.[12]

11. John Doar Interview by Task Force, Mar. 27, 1979, 47.

12. Id., 26.

XII. GARY THOMAS ROWE: THE AFTERMATH

After Wilkins, Eaton, and Thomas were arrested on March 26th, the klan immediately began to suspect that Tommy Rowe had a hand in turning them in.[1] Rowe went home and learned that he and his family had already received threatening telephone calls[2], and he asked the Bureau if he could move into a motel, which he did on March 29, 1965.[3]

That day, agents asked Rowe to sign a fourteen-page detailed statement of the Liuzzo episode in order to confirm his account of Mrs. Liuzzo's death.[4] The Selma office teletyped Washington and stated that Rowe would sign the statement provided he:

knows where he stands with respect to prosecution in both Federal and State courts. He raises the question concerning what can be done for him with respect to future employment, and what will be done with respect to relocation of his family and himself. . . . [Rowe was] not interested in large monetary return for his services as he feels he has served his country during the past several years in the capacity of an informant and has performed a duty and an obligation as a citizen. [5]

1. Memorandum from SA James L. McGovern to BH SAC, Mar. 29, 1965; BH 44-1236-68; Task Force 3728-31.
2. Teletype from BH SAC to Director and Selma; Mar. 29, 1965; HQ 44-28601-88; Task Force 3728-43.
3. Id.
4. Teletype from BH SAC to Director and Selma; Mar. 29, 1965; BH 44-1236-71; Task Force 3728-20. Rowe Statement prepared by FBI and Rowe, Mar. 29, 1965; HQ 44-28601-35; Task Force 3728-98 to 3728-11.
5. Teletype from BH SAC to Director and Selma, Mar. 29, 1965; HQ 44-28601-86; Task Force 3728-41.

Rowe never signed the statement which was a restatement of his earlier interview accounts to agents.

On April 1, 1965, Barrett informed Inspector James McGovern that Doar had authorized him to tell Rowe that the Federal Government would not prosecute him if he promised to tell the truth about the killing and would "stand by him" should the State try to prosecute him. [6]

Rowe departed from Birmingham on April 1, 1965, for Pensacola, Florida, where he stayed until his Federal Grand Jury appearance on April 5, 1965 [7], and after that, traveled to Miami on April 7th [8], all the while accompanied by Special Agent Neil P. Shanahan. [9]

Barrett told Rowe in Atlanta on April 14 that Alabama Attorney General Richmond Flowers and Lowndes County Solicitor Arthur Gamble wanted Rowe to testify in State court and had assured Barrett they would make every effort to grant Rowe immunity from State prosecution. Barrett told Rowe he was convinced of the State's sincerity in protecting Rowe's interest, however, Rowe agreed to testify only if he

6. Memorandum from James McGovern to BH SAC, Apr. 1, 1965; BH 44-1236-144; Task Force 3729.

7. Memorandum from Alan H. Belmont to Clyde Tolson, Apr. 1, 1965; HQ 44-28601-126; Task Force 3747.

8. Teletype from BH SAC to Director Apr. 6, 1965; HQ 44-28601-166; Task Force 3788.

9. Id.

received personal assurances from the State authorities that he would be immune from State prosecution. [10]

On April 14, 1965, federal charges against Rowe were dismissed, and he was released from bond. [11]

Meanwhile, the State of Alabama was preparing to prosecute Wilkins for murder, and Rowe travelled from Miami to Maxwell Air Force Base in Montgomery to discuss his role in the state proceedings with the prosecutors. [12] He appeared before the Lowndes County Grand Jury on April 20, 1965, where he made an "excellent witness", according to County Solicitor, Arthur Gamble. [13] He returned to Miami on April 22nd. [14]

Rowe testified in Lowndes County, Alabama, at the first murder trial of Collie Leroy Wilkins on May 3, 1965, after which the Department moved him to San Francisco, California, where he assumed a new identity. [15] There, Rowe worked as an investigator for a private detective agency [16], and

10. Teletype from AT SAC to Director, Apr. 14, 1965; BH 44-1236-266; Task Force 3856-58.
11. United States Attorney for the Northern District of Alabama, Macon Weaver letter to U.S. Commissioner Charlton, Apr. 14, 1965; BH 170-9-409; Task Force 3868.
12. Teletype from Director to MO and BH, Apr. 16, 1965; Task Force 3896.
13. Teletype from MO SAC to Director, Apr. 20, 1965; HQ 44-28601-227; Task Force 3907.
14. Teletype from BH SAC to Director, Apr. 21, 1965; HQ 44-28601-220; Task Force 3909.
15. Memorandum from SAC Curtis Lynum to File, May 6, 1965; Task Force 4004B.
16. Teletype from SF SAC to Director, June 1, 1965; HQ 44-28601-391; Task Force 4120.

returned to Montgomery on October 12th to testify in the second state murder trial of Wilkins. By all accounts, he again made an extremely strong witness, and remained unshaken throughout cross-examination. [17]

After returning again to San Francisco, Rowe began to have serious doubts about testifying in the Federal trial [18], in light of Wilkins' prompt acquittal in the second state trial. After considerable discussion with John Doar, and agents James McGovern, and Neil Shanahan, Rowe agreed to testify [19], but only after asking for and receiving written assurance from Doar that Rowe, if questioned about Moton, would answer that he did not believe Leroy Moton was in the car with Mrs. Liuzzo. [20] Rowe also received a letter from Attorney General Nicholas Katzenbach, saying that the Government would do whatever it could to relocate him and his family and find him employment adding: "This is not contingent on the performance of any further services or assistance that you may give to the United States at any time in the future." [21]

17. Teletype from MO SAC to Director, Oct. 21, 1965; HQ 44-28601-522; Task Force 4430.
18. Airtel from SF SAC to Director, Nov. 9, 1965; HQ 44-28601-557; Task Force 4530.
19. Teletype from SA McGovern to Director, Nov. 28, 1965; BH 44-1236-753; Task Force 4632-37.
20. Letter from John Doar to Rowe, Nov. 27, 1965; HQ 44-44-28601-628; Task Force 4621-22.
21. Letter from Nicholas Katzenbach to Rowe, Nov. 27, 1965; HQ 44-28601-628; Task Force 4620.

After testifying in Montgomery, where Wilkins, Eaton, and Thomas were all found guilty, Rowe returned to California. On January 14, 1966, SAC Curtis Lynum presented Rowe with a check for \$10,000, "as full and complete payment to [him] for services rendered to the FBI." [22] This payment brought a total of over \$22,000 which the FBI had paid Rowe for his service as an informant and federal witness from 1960 to 1965. [23] Rowe signed the following statement:

This amount has been accepted by me in full and complete satisfaction of services rendered voluntarily to representatives of the FBI up to and including January 14, 1966.

My acceptance of this amount in fulfillment of the above brings to a close a very pleasant relationship, which I have enjoyed with representatives of the FBI, who have on all occasions treated me fairly and with the utmost consideration, and I wish to take this opportunity to express my appreciation. [24]

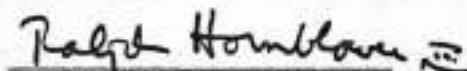
On January 17, 1966, Rowe became a Deputy United States Marshal in San Diego, California, [25] a position which he held until January 1968.

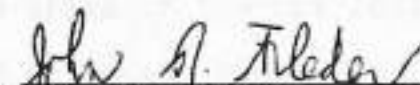
22. Airtel from SF SAC to Director, Jan. 14, 1966; HQ 44-28601-696; Task Force 4748.
23. Memorandum from M.F. Row to Callahan, Oct. 25, 1965; HQ 44-28601-549; Task Force 4443.
24. Airtel from SF SAC to Director, Jan. 14, 1966; HQ 44-28601-696; Task Force 4750.
25. Memorandum from Alex Rosen to DeLoach, Jan. 11, 1966; HQ 44-28601-685; Task Force 4730.

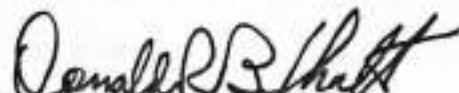
The foregoing comprises our report.

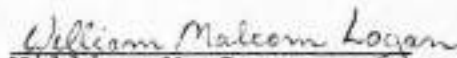
No conclusions regarding Rowe's participation in the death of Mrs. Liuzzo are included because of his pending trial in Alabama. The Task Force does not think any conclusions or recommendations are warranted regarding the handling of informants. The Rowe matter is now fourteen years behind the FBI and guidelines have now been promulgated. We view this matter as sui generis.

The Gary Thomas Rowe, Jr. Task Force.


Ralph Hornblower, III


John R. Fleder


Donald R. Burkhalter


William M. Logan

APPENDIX I. METHOD OF REVIEW

In order to carry out the Task Force's mission as stated in Chapter I, we reviewed nearly 800 volumes of FBI records in whole or in part, depending on the relevance of the particular volume to the focus of the inquiry. The average volume contains about 200 pages. Initially, we located and examined every reference to the name Gary Thomas Rowe and all the variations of the name in the Bureau's central indices. These files were located in Washington and 40 different field offices. The Task Force personally inspected all such files in the critical offices of Birmingham, Mobile, Atlanta, and Savannah, and had the relevant files from the other offices forwarded to Washington for review.

Significantly, we were given full access to Rowe's personal informant files in Washington and Birmingham and to the files of every other FBI informant known to have any contact with Rowe. [1]

To check the accuracy and completeness of the file entries under Rowe's name, we read all the general files on the incidents in which Rowe was known or suspected to have been involved. We gave particular attention to files in Washington and Birmingham relating to the Liuzzo murder (HQ 44-28601; BH 44-12360), the bombing of the 16th Street Baptist Church and related bombings

1. References to the identity of the other informants were deleted to protect their confidentiality.

in Birmingham (HQ 157-1025; BH 157-352), and the beatings of freedom riders at the Trailways bus station (HQ-149-1684; BH 149-16).

As an additional means of finding out about Rowe, we pulled and read the files in Birmingham on the Eastview 13 Klavern, to which Rowe belonged, and the Bessemer Klavern, which was closely affiliated to Eastview during the time Rowe was an FBI informant and the pertinent files on Alabama's United Klans of America. We also examined the files relating to the FBI's Counter-Intelligence Program (COINTELPRO) against the klan.

We reviewed all files maintained by the Department's Civil Rights Division relating to the Liuzzo murder, the bombing of the 16th Street Baptist Church, and the Trailways bus station incident. We also reviewed the documents the Criminal Division obtained in their 1978 inquiry, and the documents made available by the Senate Select Committee on Intelligence and by the FBI's Inspection Division.

When Rowe surfaced as an FBI informant and government witness following the Liuzzo killing, klansmen were bitter and started spreading stories about his character and conduct in the klan. We did not pursue all these allegations, especially when they appeared to be obviously vindictive.

For example, when Mary Lou Holt, the wife of a klansman, was interviewed by the FBI in 1964, she said that:

The perpetrators of the 16th Street Baptist Church [bombing] were undoubtedly Negroes or whites

interested in bi-racial activities who felt the Church bombing would help the cause of civil rights in the South.[2]

But when reinterviewed in 1965 after Rowe surfaced, she told the Bureau that a "morally low and unstable person such as Tommy Rowe was likely responsible for the bombs which had been planted in Birmingham over the previous several years." [3]

The Task Force sought not only to identify each time the klan asked Rowe to take part in violence, but also to document what the Bureau did with the information when they got it in advance.

To complement our file review, Task Force members interviewed: 4 present or former FBI Headquarters officers; 19 present or former FBI agents or field office personnel; 10 present or former klansmen or klan sympathizers; 9 FBI informants or former informants (including Gary Thomas Rowe); 8 present or former Alabama or local law enforcement officials; 5 Civil Rights Division attorneys or support personnel; 2 former United States Attorneys and 1 former Assistant United States Attorney; 2 of Rowe's former girlfriends; 2 private citizens of Birmingham; 1 former Alabama law enforcement informant; and Leroy Moton for a total of 64 interviews. We interviewed agents in Akron, Atlanta, Birmingham, Dallas,

2. Report of SA Robert Murphy and SA J. Brooke Blake, June 30, 1964; BH 157-352-4861, Task Force 2857.
3. Report of SA John V. Knudson, June 28, 1965; HQ 157-3497-1, p. 11, Task Force 4154.

Jackson, Memphis, Mobile, Montgomery, Oklahoma City, Phoenix, Prentiss, Mississippi, Portland, Maine, and Savannah, Georgia. Other knowledgeable persons were interviewed in Atlanta, Birmingham, Bessemer, and in various cities in Florida, Georgia, and South Carolina.

Most of the interviews were conducted in person, although a few were taken over the telephone. Where the interview subjects agreed, we recorded the conversations under oath and had them transcribed. We prepared memoranda for most of the interviews which were not tape recorded.

Several klansmen and former acquaintances of Rowe refused to talk to the Task Force. One former Eastview 13 informant who knew Rowe refused to be interviewed on account of his poor health.

We learned that the Bureau used a limited amount of electronic surveillance on some suspects at the height of the church bombing investigation. We reviewed the transcripts and logs from these installations, and in certain instances, compared them for accuracy against the tape recordings themselves. A microphone was placed in Gary Thomas Rowe's automobile, but mechanical or technical problems prevented it from working.

We photocopied over 5375 pages from Bureau files, which were arranged chronologically and numbered sequentially. Folders were set up for each interview subject to hold relevant documents from FBI files and interview transcripts or memo-

randa. Certain folders were designated by number only to protect the identities of FBI informants. Likewise, we created pseudonyms for certain informants and confidential sources who are discussed in the final report.

Except for the Mobile office, we found only a handful of pages and documents missing from the hundreds of volumes we examined. Most of these documents were, in all likelihood, not missing, but merely improperly numbered by the file clerks. We found it most unfortunate, however, to discover that one of these missing documents appears to be absent from Rowe's informant files. Labelled 170-9-SF-206, the document should have been entered in the October section of his 1963 file--about one month after the date of the 16th Street Church bombing. We investigated the matter, however, and found no indication of wrongdoing.

We also discovered that the Mobile, Alabama, field office's entire file on the shooting of Viola Liuzzo, MO 44-1245, was destroyed on December 23, 1977, long before the Attorney General created the Task Force. We conducted an inquiry into the circumstances surrounding this file destruction and concluded that the Mobile office destroyed the file after the Director had ordered all field offices to destroy its criminal files which had been closed for over five years, according to the FBI's official file destruction program.[4] Fortunately, we

4. 41 C.F.R. 101.11; 44 U.S.C. 3301-02.

were able to reconstruct much of the file from Department FBI Headquarters and Birmingham field office files and do not consider the loss of these files to have significantly interfered with our investigation.

In this report, the Task Force used the FBI's numbering system in citations referring to Bureau documents. The numbering system generally indicates: (1) the classification or type of investigative violations or administrative area involved; (2) the individual case file within the category; and, (3) the serialization of documents in the file. The symbols for Headquarters or the field office sending and receiving the documents and the title of the person sending or receiving the document is also included in the citation. For instance, the citation, Teletype from BH SAC to Director, HQ 157-1025-699, indicates that the Birmingham Special Agent in Charge sent to FBI Headquarters a document, now found in HQ files, which was the 699th document in the 1025th case file assigned to the Racial Matters (157) classification. Similarly, the citation, Memo from SA Womack to BH SAC, BH 157-352-4850, refers to a document, found in the Birmingham field office files, from Special Agent (SA) Womack to the Birmingham SAC which is the 4850th document in the 352nd case file assigned to the Racial Matters classification.

The Task Force photocopied documents from Bureau files which were arranged chronologically and numbered sequentially. References to this compilation are cited as Task Force (appropriate page number), e.g.: Task Force 4174.

The following symbols and abbreviations are found in footnotes:

FBI Field Office Symbols

AT - Atlanta
BH - Birmingham
MO - Mobile
DE - Detroit
SF - San Francisco
HQ - FBI Headquarters

Agent Symbols

SAC - Special Agent-in-Charge
ASAC - Assistant Special Agent-in-Charge
SA - Special Agent

Other Symbols

CRD - Civil Rights Division,
U. S. Department of Justice
USC - United States Code
CFR - Code of Federal Regulations

APPENDIX II

ROWE AND THE FBI'S COUNTER-INTELLIGENCE PROGRAM

Rowe alleges that at some point in his career as an informant, an FBI agent he believes to be Byron McFall told him that the FBI had "declared war" on the klan and were removing all restraints on Rowe's activity. Rowe said the agent used the word COINTELPRO, and instructed Rowe that he was now allowed to sleep with klan wives, spread lies, foment dissension, report on klan political affiliations, and disrupt the political campaigns of Mayor Art Hanes.

Rowe first made these allegations in 1975, before the Senate Select Committee on Intelligence Activities, and expanded upon them in his autobiography the following year.[2] He described the same stories to the Task Force in 1979.[3] The available evidence casts great doubt on their veracity.

FBI files indicate that the Bureau did not undertake its counter-intelligence program against the klan and other white-hate groups until September 2, 1964, only six months before Rowe surfaced as an informant in the murder trial of

1. Deposition of Gary Thomas Rowe, Jr., Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Oct. 17, 1975, 10-11.
2. Rowe, My Undercover Years in the Ku Klux Klan, 52 (1976).
3. Gary T. Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. I at 50, 81; Vol. II at 245.

Viola Liuzzo.[4] Although Rowe talks freely about his "instructions," he is very unspecific about what, if anything, he actually did, other than professing to have slept with 12 to 15 klan wives at the behest of the Bureau.[5];

The COINTELPRO program against white-hate groups is well documented in Bureau files, which were created at a time when it is safe to say that no one dreamed they would become public knowledge. It began on September 2, 1964, when the Director circulated a letter to 17 Southern field offices advising that,

"effective immediately, the Bureau is instituting a coordinated Counterintelligence Program (COINTELPRO) directed against klan-type and white-hate organizations. Offices receiving copies of this letter are instructed to immediately open an active control file, captioned as above, and to assign responsibility for this program to an experienced and imaginative Special Agent who is well versed in investigation of hate and racist-type organizations and their membership." [6]

The letter explained that the purpose of the program was, "to expose, disrupt and otherwise neutralize the activities of the various klans and hate organizations, their leadership and adherents." It emphasized that, "we must frustrate any effort of the groups to consolidate their forces or to recruit new or youthful adherents." Participating offices were directed to submit to Headquarters an

4. Memorandum from Director to AT SAC, et al., Sept. 2, 1964; BH 157-835-1; Task Force 3135.

5. Rowe Interview by Task Force, supra n. 3 at 244.

6. Director to AT SAC et al, supra n. 4 at 4.

analysis of "potential" counterintelligence actions before October 15, 1964, and thereafter to submit quarterly reports on such actions and their results. On page 4, set off in its own paragraph and underlined for emphasis is, the sentence: "No counterintelligence action may be initiated without specific Bureau authorization." [7]

Birmingham's COINTELPRO file indicates that between September 2, 1964 and April 6, 1965, the office initiated only two COINTELPRO actions, by sending anonymous mailings to selected klansmen. [8] Neither involved Rowe. It appears that all COINTELPRO actions, wherever undertaken, were highly defined, specific acts, and no authorization was ever granted for the kind of continuing activity described by Rowe. Birmingham's COINTELPRO file does not indicate any action or even discussion of disrupting political campaigns, reporting on political affiliations or sleeping with klan wives while Rowe was an informant. Special Agent Byron McFall retired in early 1964, before COINTELPRO against the klan began, and he resolutely denies that he ever gave instructions such as Rowe described, or anything like them, [9] and says he was unaware of the program's existence while in Birmingham. [10]

7. Id.

8. Main file on Counterintelligence Program; Internal Security; Disruption of Hate Groups; HQ 157-9-4, Vol. I.

9. Byron McFall Interview by Task Force, Mar. 7, 1979, 52-56.

10. Id., 52.

Special Agent Brooke Blake became Rowe's alternate handler on November 30, 1963, and took over those duties entirely when McFall left.[11] Blake also denies giving Rowe any such instructions.[12] He recalls that, after the 16th Street Church bombing on September 15, 1963, the office was under increased pressure to develop more klan informants, but does not recall a "war on the klan," and says he was not involved in COINTELPRO.[13] Both Blake and McFall noted that Rowe would frequently crow over his sexual exploits and, on one occasion, boasted about sleeping with klan wives.[14]

11. J. Brooke Blake Interview by Task Force, Feb. 22, 1979, Vol. I at 8.

12. Id., Vol. II at 1.

13. Id., Vol. II at 1, 91.

14. Id., Vol. II at 92. McFall Interview by Task Force, supra n. 9 at 54.

APPENDIX III. HANDLING FBI INFORMANTS

A. FBI Rules and Regulations

1. Introduction

The Task Force's starting point for understanding the FBI procedures for handling Gary Thomas Rowe was to examine those rules, regulations, and guidelines which were in effect while Rowe was an informant. Between November 19, 1978, and March 26, 1979, we requested the FBI to provide the following documents covering the relevant time period (1960-1965):

- (1) All general FBI guidelines or regulations on handling informants;
- (2) From Headquarters and Birmingham and Mobile field offices, FBI files 170-00 and 137-00 consisting of the principal instructions on the handling of informants;
- (3) Any guidelines or regulations on the use of "extremist" informants;
- (4) Any instructions on informants given to FBI agents at the Bureau's Quantico Training School;
- (5) Any instructions which agents were expected to advise informants about engaging in violence and any explanatory affidavits from present or former FBI personnel;
- (6) Any instructions on what agents were expected to report about violent acts which an informant may have committed.

The following section outlines our examination and analysis of the documents the FBI provided in response to our requests. We will then look at how FBI personnel understood, interpreted, or knew about these rules.

2. The Importance of Informants

The FBI had recognized that the United States government has always used informants in times of war and peace, to combat criminals and subversives.[1] In 1946, FBI Director Hoover^d instructed all Special Agents in Charge to exert pressure on agents to develop informants.[2] The need for adequate confidential informant coverage was continually stressed in bulletins, letters, conferences, and field inspections.[3]

In 1950, he wrote to twelve top FBI officials and stated that there was a "deplorable lack of confidential informants developed by the field office." [4] The FBI restated its concern in 1955[5] and 1959.[6]

On October 17-18, 1960, the FBI held a conference in New Orleans on the development and maintenance of informants. There a Headquarters official stressed the importance of getting informants into the "inner groups" of the klan, so as to prevent the bombings

1. Memorandum from Alan H. Belmont to L. V. Boardman, Mar. 26, 1955, 4-5; HQ 66-2542-1-411X.
2. Memorandum from Alex Rosen to Ladd, Jan. 26, 1950; HQ 66-2542-1-12.
3. Id.
4. Memorandum from Director, Feb. 1, 1950; HQ 66-2542-1-3.
5. Memorandum from F. L. Price to Rosen, Aug. 26, 1955; HQ 66-6200-137-51; Task Force 033.
6. SAC Letter No. 59-48 from Director, Aug. 4, 1959; HQ 66-04-2881; Task Force 103.

considered to be the work of the klan.[7] Less than one year later, Director Hoover urged each field office to develop informants in all klan and other white hate groups.[8]

An even stronger push for effective informant coverage of klan groups was made in July 1964. Following the disappearances of civil rights workers Michael Schwerner, Andrew Goodman, and James Chaney from Philadelphia, Mississippi, on June 21, 1964, the FBI informed all field offices in the South that continuing acts of racial violence including bombings, shootings, killings, assaults, and church bombings made it essential to develop more informants within klan organizations, especially in what Director Hoover called the "hard core" groups.[9]

Just six days later, the Director advised all field offices that President Johnson was depending on the FBI "for necessary action in connection with the current racial situation" and advised each office to give the highest priority to developing more racial informants[10] including klan organizations.[11]

7. Memorandum from SA C. B. Stanberry to BH SAC, Oct. 31, 1960; HQ 137-00-165; Task Force 226.
8. SAC Letter No. 61-30 from Director, June 2, 1961; BH 149-16-670; Task Force 737.
9. Airtel from Director to BH SAC, July 16, 1964; BH 170-00-7; Task Force 2975.
10. Teletype from Director to SACs, July 22, 1964; BH 170-00-9; Task Force 2999.
11. Memorandum from Belmont to Clyde Tolson, July 24, 1964; HQ 134-00-310; Task Force 3008.

The SAC in Birmingham immediately alerted all agents in the office of this directive.[12]

3. What Is An Informant

FBI informants such as Gary Thomas Rowe, who penetrated klan groups were considered "racial informants," under the FBI's Manual of Instructions.[13]

Before 1964, the FBI defined a racial informant as an:

Individual actively engaged in obtaining and furnishing current information on racial matters exclusively for the Bureau and whose identity must be protected. Should be a member or attend meetings of klan and similar hate-type organizations which have a propensity for violence or which strive to deny individuals certain constitutional rights by use or threat of such violence; or should be in such a position relative to these organizations that he can obtain and does provide current information of value concerning them.[14]

In January 1964, the FBI created a new section of the Manual to cover racial informants but left this definition and the governing rules and regulations essentially unchanged.[15]

Even before Rowe became an informant, the Bureau recognized that many informants in both the racial and criminal fields were themselves criminal:

12. Memorandum from BH SAC to SAs, July 28, 1964; BH 170-00-8; Task Force 3016.
13. FBI Manual of Instructions, § 108 M.
14. FBI Manual of Instructions, § 108 M 1 a.
15. FBI Manual of Instructions, § 130 A 1.

However, the best informants in the criminal field are those with the most criminal activity and generally will not meet high standards set as to emotional stability and morals.[16]

This view was shared by the FBI's Birmingham office,[17] which recognized that, "as most productive informants are criminally inclined, it is easy for them to sacrifice a principal for remuneration," and the FBI manual stated: "It must be recognized that many such informants are also criminals and considerable care must be exercised in dealing with them so they will not become aware of and have the opportunity to obstruct the Bureau's work." [18]

4. Developing Informants

Before designating someone as an FBI "racial informant," the agency placed him on probationary status and called him a "potential racial informant." Potential racial informants were those who were "in a position to become active" in klan groups and who tried to obtain from them information for the Bureau.[19] Until 1964, the proper procedures for developing and for handling racial informants were set forth in §§ 107 and 108 of the FBI Manual of Instructions.

Under § 108 M 8 a (1)(a), the field was to conduct an extensive background investigation on a potential racial informant before

16. Memorandum from Price to Rosen, Aug. 31, 1955; HQ 66-2542-1-424.

17. Memorandum from BH SAC to Director, Feb. 11, 1953; HQ 66-6200-137-3; Task Force 002.

18. FBI Manual of Instructions, § 108 I.

19. FBI Manual of Instructions, § 108 M 1 b.

putting him on a probationary status. The background investigation included: (1) checking field office files for derogatory information; (2) obtaining information about his personal history, health, reliability, stability, integrity, general reputation, and employment; (3) checking his credit and arrest records; and (4) determining his domestic status, including possible marital difficulties. Once this investigation was completed, the field had to conclude that the potential racial informant could be used "without danger of embarrassment to the Bureau,"[20] and had to verify to Headquarters that he possessed stability, reliability, and had been indoctrinated against disclosing his confidential relationship with the FBI. The applicable Manual of Instructions did not define either the term "stability" or "reliability."

The FBI recognized that although its informants did not have to be "lily-white," Headquarters would not approve anyone who had an unsatisfactory service record, used narcotics or whiskey, or engaged in sex perversion.[21] However, there is no record that the Bureau would reject a potential racial informant if they knew he had engaged in violence in the past or might do so in the future.

To obtain a potential racial informant's cooperation, agents were instructed to exploit mutual interest, such as sports topics and hobbies.[22]

20. FBI Manual of Instructions, § 108 M 8 a (2)(a).

21. SA Stanberry to BH SAC, supra n. 7 at 222, 231.

22. SAC Letter No. 53-27 from Director, Apr. 14, 1953; HQ 66-2542-1.

After a probationary period of, in most cases, several months,[2] the field office could recommend to Headquarters that the potential racial informant be given full racial informant status. The field had to show that the candidate would not present a "danger of embarrassment to the Bureau" and to certify his "stability," "reliability," and "indoctrination against [the] disclosure" of his confidential relationship with the FBI.[24] In addition, the field office had to show that the potential racial informant would continue to provide the Bureau with valuable information.

5. The Handling of Racial Informants

a.) Payments

The Special Agent in Charge could authorize a payment to an informant of up to \$200 without Headquarter's approval.[25] Before making additional payments, the SAC had to send to Headquarters a "letter of justification" every four months, which included the following:[26]

- (1) Current membership in "subversive" organizations;
- (2) A summary of information recently furnished;
- (3) Any information he provided which was of unusual value to the FBI;
- (4) The number of reports the informant submitted;

23. FBI Manual of Instructions, § 108 M 8 a (3).

24. FBI Manual of Instructions, § 108 M 8 a (2).

25. FBI Manual of Instructions, § 107 N 2.

26. FBI Manual of Instructions, § 107 N 3.

- (5) The persons about whom the informant furnished information;
- (6) Steps taken to insure the informant advances in the organization;
- (7) A statement as to the informant's stability and reliability including personal weaknesses, domestic difficulties; indications of untrustworthiness or unreliability, including steps taken by the agent to prevent the informant from posing an embarrassment to the FBI;
- (8) A statement that the informant has been indoctrinated against disclosing his confidential relationship with the FBI to outsiders; and,
- (9) A statement as to what the field office did with the information the informant provided.

Rowe was given the designated number "BH (Birmingham Informant) 248 (his number) R (racial) or C (criminal)."[27]

Field offices were instructed to discontinue payments if an informant's information proved "not commensurate with the payments being made to him." [28]

The FBI leadership constantly emphasized that informants were not employees. In 1952, Director Hoover stated that informants "are not in any sense Federal employees. Each informant thoroughly understands his position in this regard and operates as an independent contractor." [29] The FBI

27. Memorandum from BH SAC to Director, Dec. 17, 1964; HQ 137-6295-29; Task Force 3462.

28. FBI Manual of Instructions, § 107 N 3 h.

29. Memorandum from Director to AAG, Criminal Div., Oct. 23, 1952; HQ 66-2542-1.

took the position that because they were not paid "salaries," they should not consider themselves to be either on the FBI payroll[30] or undercover agents.[31]

b.) Supervision of Informants

There are records which indicate that the FBI was most concerned about insuring that their informants be adequately supervised. In 1952, Director Hoover indicated he was concerned about informants exposing the identities of other informants.[32] Also, the Bureau was quite concerned that agents were accepting information from informants "at face value"[33] and instructed agent handlers to be on guard against "false or speculative information" and, if discovered, to report it immediately to Headquarters.[34] The Director maintained that:

Informants are essentially double-crossers;
informants should not be given information [35]

30. Memorandum from Price to Rosen, July 17, 1958; HQ 137-00-63X; Task Force 085.
31. FBI Manual of Instructions, § 130 M (7).
32. Memorandum from Director, July 11, 1950; HQ 66-2542-1.
33. SAC Letter No. 55-6 from Director, Jan. 25, 1955; HQ 66-6200-127.
34. SAC Letter No. 55-15 from Director, Feb. 17, 1955; BH 137-00-102; Task Force 021; FBI Manual of Instructions § 107 S 1.
35. Memorandum from Director, Mar. 1955; FBI Manual of Instructions, § 107 E 3.

When an agent found any indication of "instability" in an informant, he was also to report the details to Headquarters immediately.[36] Agents were expected to stay close to their informants and to constantly impress upon them the importance of keeping their FBI relationship confidential.[37] Headquarters emphasized that agents constantly review the "reliability" of their informants.[38]

Agents were never allowed to offer their informant alcohol[39] or other gifts.[40] There were detailed instructions on how informants were to report their FBI income on their tax returns.[41]

Headquarters advised field offices of various ways in which informants had embarrassed the Bureau: when the FBI disseminated a report containing inaccurate information provided by an informant,[42] or when an informant induced someone to back his financial enterprise after establishing that he had an FBI contact.[43]

36. FBI Manual of Instructions, § 107 F 3.

37. FBI Manual of Instructions, § 107 F 4 e.

38. FBI Manual of Instructions, § 107 F 5 c.

39. SAC Letter No. 54-5 from Director, Jan. 26, 1954; HQ 66-6200-134.

40. FBI Manual of Instructions, § 107 N 1.

41. FBI Manual of Instructions, § 107 N 6.

42. SAC Letter 14 from Director, Feb. 14, 1947.

43. SAC Letter No. 57-24 from Director, Apr. 23, 1957; HQ 66-6200-137; Task Force 071.

c.) Receiving Information from the Informant

Agents were instructed to review, record, index, and evaluate all informant information provided either orally or in writing.[44] When an informant reported "information of vital and immediate interest" to Headquarters, the field office was expected to take appropriate action immediately.[45] An agent handler was to record each and every instruction he gave the informant and to put it in the informant's file.[46]

d.) Illegal Acts and Violence

The FBI's regulations did not specifically instruct agents to warn informants that they were not to violate any federal, state, or local law. Agents were, however, told to advise their informants that they would be subject to federal "impersonation" statutes if they ever claimed to be FBI undercover agents.[47] Also, informants who applied for unemployment compensation were instructed to report their pay to state authorities. Headquarters stressed that "the Bureau cannot be placed in the position of condoning a violation of the state law on the part of any informant." [48] Agents were

44. FBI Manual of Instructions, § 107 G 1 f.

45. FBI Manual of Instructions, § 107 G 3 h.

46. FBI Manual of Instructions, § 107 G 2 a (12) and 107 G 2 b (1).

47. FBI Manual of Instructions, § 107 D 13.

48. FBI Manual of Instructions, § 107 N 8 (a).

also told that the FBI would not pay any fines or court fees to an informant charged with violating the law.[49]

In 1952, the Department of Justice provided the FBI with a legal opinion on whether an informant could be prosecuted while attempting to obtain evidence on a violation of federal law. The Department concluded that an informant is not immune from "prosecution for actions which could subject a Federal enforcement officer to prosecution,"[50] but he would not be prosecuted if his intent was to assist the government in its enforcement of the law.[51] Headquarters placed pertinent sections of this opinion letter in the Manual of Instructions for Criminal Informants.[52] However, they issued no instructions on what field offices should do after receiving allegations or reports that an informant violated the law. Officers were not advised:

- (1) to investigate to determine if the informant intended to violate the law; or
- (2) to report the act to Headquarters or appropriate local or federal prosecuting authorities.

The Task Force was able to find only two FBI documents which touched on the question of the FBI's obligation upon learning of an informant's violent acts. Neither was in the applicable FBI

49. SAC Letter No. 57-31 from Director, May 21, 1957; HQ 66-6200-137; Task Force 072.

50. SAC Letter No. 74 from Director, Aug. 1, 1952; HQ 66-2542-1.

51. Id.

52. FBI Manual of Instructions, § 107 K.

Manual of Instructions. These memoranda merely asked whether a certain level of informant violence could be found to be "acceptable." The question was asked, but never answered.

In 1960, at a special conference in New Orleans regarding the handling of FBI informants, a Headquarters official expressed concern that the FBI was not obtaining enough information from the klan "inner groups," who were thought to be responsible for bombings then occurring in the South. An agent from the Birmingham office reported:

The problem is how to get information into that inner group. It is pointed out that this problem was discussed [at the conference], but was never satisfactorily solved. In other words, our policy is not to ask the informant to engage in any forms of violence. If he does not get selected for the inner group or den, he may never know what is actually going on, as far as violence is concerned.[53]

The Headquarters official indicated that field offices should not disseminate information on cross burnings since "informants may assist in cross burnings." [54]

In 1964, Headquarters advised Birmingham that informants such as Rowe were not permitted to serve in positions where they lead or instigate violence. Rowe was consequently ordered not to direct, lead, or instigate any acts of violence, but was

53. SA Stanberry to BH SAC, supra n. 7 at 222, 226.

54. Id.

expected to keep Birmingham apprised of any proposed or actual violence.[55] Agents were not told how to handle an informant like Rowe who encountered a situation where he was asked to engage in violence. If Rowe was unable to contact the office about proposed violence he was expected to participate in, "he should be instructed to avoid participation wherever possible." [56]

The Manual of Instructions did provide some guidance on how racial informants should behave within the klan. For example, they were expected to converse with, and not just observe, other klansmen.[57]

The FBI recently explained to the Task Force how agents were instructed in the 1960's to handle informants who encountered violent situations:

The Department of Justice task force looking into the FBI's handling of former Ku Klux Klan informant Gary Thomas Rowe has access to FBI investigative files, including the control files concerning criminal and racial informants, namely 137-00 and 170-00, respectively. During the course of their file reviews and as a result of interviews with former and current FBI personnel, the task force believes the area of official instructions which the Agent was required to give informants lacked some essential points. These points are the committing of violence and whether an Agent should report such activity to superiors, both in the field and to FBI Headquarters (FBIHQ).

55. Memorandum from Director to BH SAC, May 4, 1964; BH 170-9-299A; Task Force 2661.

56. Id.

57. FBI Manual of Instructions, § 107 F 9 b.

In response to the task force general inquiry, there follows a summary of information which will be helpful to the task force in understanding the background in these matters:

One of the most traditional and basic activities of an FBI Agent or official is the development and handling of informants. This important function has been constantly emphasized and followed throughout most of the FBI's history, with more particular emphasis and stress being afforded these matters after World War II. The repetition and concern transmitted to the individual Agent and to the Special Agent in Charge (SAC) amounted to a massive program of constant periodic reiteration to the extent that all involved in the program could not help but to accept the fundamental premise that illegal acts cannot be condoned. From the period of new Agent's training, through in-service schools, SAC Memoranda and other communications, the Agent and SAC were constantly pressed for both developing informants and simultaneously in not taking any action which would bring the FBI into disrepute or embarrassment. Any deviation, misperformance, or lack of performance on the part of FBI personnel was the subject of implied disciplinary action, if not actual disciplinary action.

With the above emphasis clearly in mind, no specific document appears in FBI files which covers the full spectrum of informant development or handling. One must recognize that the FBI, as an institution, learned from situations and events, including mistakes, and the procedures governing informants developed step by step. Consequently, to look back at this stage and ask specific questions as to whether certain instructions existed in the early 1960's, such as "Were informants instructed not to commit acts of violence?" has to be considered in the broad spectrum of informant development and handling.

Specifically, no such written instructions were located; however, documents which cover areas close to this issue were located which, when read, could lead a reasonable person to conclude FBI procedures were such that an Agent would both warn an informant about the consequences of the informant's illegal acts to the appropriate authorities, should

an informant so reveal such activity to the handling Agent or the Agent receives such data from other sources. Any failure to do so would be the failure of an Agent who "risked" such action on his own and was not an institutional failure.

Rather than state the specific step-by-step development of informants and their handling, there is enclosed a selection of documents which appear in FBI central files, which, when read in order and as a whole, display the FBI's concern and basic instructions for an Agent developing and handling an informant.

* * *

In brief summary, the above documents on an individual basis may not appear to show the concern and extent of instructions on specific points Agents were required to follow in developing and handling informants. Further, the above documents are not fully complete as a massive survey of our files would be required to cover each and every situation and event which has occurred in the past. There is, however, a sufficient amount of material enclosed therein to verify both the complexity, the seriousness, and the parameters of instructions which would not allow illegal activity on the part of an informant to go unnoticed or unreported.[58]

In sum, a thorough file search by the Task Force and the FBI uncovered no document which definitively set forth whether there was a permissible level of violence for informants such as Rowe. The FBI maintains that it conducted a massive program to insure that its personnel understood that illegal acts would not be condoned. However, we are forced to conclude from our review of the files that there is little documentary evidence to support this view. In addition, we could find no guidelines which would have assisted the agent handler and his superiors to determine whether there were any

58. Memorandum from FBI to the Task Force, Mar. 29, 1979.

situations in which the FBI would allow an informant to engage in "minor" unlawful or violent conduct in order to obtain from him valuable information of extraordinarily dangerous violence, such as a planned bombing. Yet the record clearly demonstrates that Headquarters wanted the field agents to develop as many informants as possible and constantly pressured them to do so.

It is also clear that the handling agents were not given enough guidance in writing on how to handle someone like Rowe. For example, if Rowe reported that he and other klansmen had just attacked some blacks who were attempting to integrate a local restaurant, it is not at all clear that the agent would know how he ought properly to respond.

Should the agent have reported the facts to Headquarters immediately? Should Rowe have been admonished not to engage in such activity in the future? Should either the agent or Headquarters have recommended that Rowe be terminated? What action, if any, should the Special Agent in Charge take? What objective standards should the SAC or Headquarters have applied to determine whether to terminate him? Should the SAC have immediately conducted an independent investigation of the facts surrounding the restaurant beating to insure that Rowe's role was as he described it? Should the field office have advised the local police of the incident, while revealing, or not revealing, Rowe's identity? FBI regulations in effect at the time provided no answers to these questions.

APPENDIX III

HANDLING OF FBI INFORMANTS

B. HOW THEY OPERATED IN PRACTICE

The Task Force attempted to determine how the FBI rules and regulations on informants were interpreted and understood at all levels within the Bureau and by FBI informants.

1. Supervisory Persons

Alex Rosen, SAC, Inspector, Assistant Director, and Assistant to the Director of the FBI[1] was the highest ranking official we interviewed. For 29 years, Mr. Rosen headed the division responsible for all civil rights and criminal cases,[2] and in that capacity played a supervisory role in every major case the FBI handled until his retirement.[3]

Under his tenure at the Bureau, Mr. Rosen stated that agents were required to tell their informants that the FBI would not protect them if they were found violating the law, and would treat them like any other law-breaker.[4]

Rosen emphasized that the FBI would never allow a klan informant to engage in violence, even if that would be the only way for him to obtain good information. "It could not be countenanced under any circumstances. It was never

1. Alex Rosen Interview by Task Force, Mar. 8, 1979, 2-3.

2. Id., 3.

3. Id., 4.

4. Id., 10-13.

justified," he stated.[5] Rosen said the FBI followed a policy of terminating an informant's services and of sending an inspector to investigate, after receiving a report that an informant was violent. The inspector would then decide whether to refer the matter to local prosecutive authorities.[6]

For example, Rosen would consider it intolerable and a "serious offense" for a klan informant to take part in beating up blacks with other klansmen and would have recommended reporting the incident to the local police.[7]

Rosen maintained that informants were fully capable of getting information about klan activities without engaging in violence, merely by being close to the leadership which was carrying out the klan's policy of violence. [8] He stressed that handling agents were required to reduce each oral informant report to writing[9] and to communicate to Headquarters any information that an informant had engaged in violence.[10]

Joseph Deegan, a supervisor in the FBI's Civil Rights Section, Criminal Division, administered the racial informant program for the entire United States between approximately

5. Id., 35-36.

6. Id., 33-36.

7. Id., 40-43.

8. Id., 25, 28.

9. Id., 106.

10. Id., 36-37.

February, 1964 until after Rowe publicly surfaced.[11] He was the first non-clerical Headquarters employee who reviewed incoming correspondence about racial informants. Additionally, he drafted any correspondence from Headquarters to a field office about racial informants and obtained approval from at least one higher FBI official before sending it out.

While he supervised activities of the field's racial informants, Deegan expected that all "investigative activity" of an informant was to be made a matter of record. He conceded that defining this term was left in part to an agent's discretion. However, all oral reports provided by informants were to be placed in the informant's file, including any violence he was involved in. Headquarters expected to be told about an informant's unlawful conduct.

In terms of violence, Deegan told us that the FBI's policy was clear, concise, and absolute -- informants were not to participate in violence in any form under any circumstances. Additionally, informants were not even to be present when violence occurred, unless their presence could not be avoided. Although we told Mr. Deegan that some agents encouraged Rowe to be at the scene of klan violence, Deegan said that the Bureau was quite capable of getting effective intelligence information about klan activity without allowing its informants to observe violence.

11. Joseph Deegan Interview by Task Force, Apr. 25, 1979.

Headquarters continuously provided informant classes and in-service training on handling informants to field agents. Deegan was an instructor in some classes. He specifically recalled outlining what agents should do if an informant was ordered to participate in racial violence, such as beating up blacks in a restaurant. The informant was to be instructed that he could not participate even if information about the other perpetrators could only be obtained through the informant's participation. An informant was told that under these circumstances, he would just have to work hard in other ways at getting the needed intelligence.

Mr. Deegan also discussed the differences between probationary informants (PCI) and full informants. While the former was considered by the FBI to be less reliable, he was not given any leeway to participate in violence or other illegal activity.

Former Inspector James L. McGovern, SAC in Birmingham after Rowe's time, [12] stated emphatically that the FBI would not allow its informants to engage in any violence. [13] Reports of an informant engaging in violence, such as floggings, should have been immediately sent to the Director, he stated, who would have ordered to terminate

12. James L. McGovern Interview by Task Force, Feb. 23, 1979, 94.

13. Id., 90, 99.

the informant's services. [14] Rather than tolerate such conduct, the FBI preferred to do without the information. [15]

Raymond L. Faisst, SAC in Birmingham from October 1962 to June 1964, [16] and Robert Jensen, ASAC in Birmingham from July 1961, to the end of 1965, [17] were the only permanent supervisory officers in Birmingham during the early 1960's. [18] ASAC Jensen told us that the SAC had direct supervision over all Birmingham agent handlers. [19]

Both men told the Task Force that informants were not allowed to participate in violence in any way. [20] While Jensen could not recall whether this policy was in writing, he recalled that informants were supposed to be specifically instructed to avoid being in a position where they would be involved in violent activity. [21]

Faisst could not recall any written instructions on informant violence, [22] but expected agents to rely on good

14. Id., 95-96.

15. Id., 93.

16. Raymond L. Faisst Interview by Task Force, Mar. 6, 1979, passim.

17. Robert Jensen Interview by Task Force, Feb. 28, 1979, passim.

18. Faisst Interview by Task Force, supra n. 16 at 21.

19. Jensen Interview by Task Force, supra n. 17 at 6.

20. Id., 34-35. Faisst Interview by Task Force, supra n. 16 at 27.

21. Jensen Interview by Task Force, supra n. 17 at 34.

22. Faisst Interview by Task Force, supra n. 16 at 104.

common sense in such situations [23] and remembered cautioning agents about insuring that their informants steered clear of violence. [24] Agents were expected to do everything possible to see that an informant provided good information, and yet at the same time, not allow him to engage in any unlawful acts. An informant is faced then and now, with an exacting challenge -- to associate with law-breakers without himself breaking the law. [25]

If he had known Rowe had taken part in violence, Faisst said he would have terminated him [26] and even considered calling his activity to the attention of prosecuting authorities, [27] and ASAC Jensen would have immediately notified FBI Headquarters for advice. [28]

Faisst expected agents to see that their informants received proper instructions and guidance, [29] but he would not have held the agent responsible for the unlawful act of his informant. "I can't visualize any law enforcement officer

23. Id., 39-40.

24. Id., 61.

25. Id., 56-57.

26. Id., 27.

27. Id., 27, 61-62. Faisst Interview by Task Force, supra n. 16 at 27, 61-62.

28. Jensen Interview by Task Force, supra n. 17 at 36-38, 43.

29. Faisst Interview by Task Force, supra n. 16 at 90.

ever wanting to see an informant if he was going to be responsible for everything an informant ever did." [30]

Agents were required to put into informant reports everything pertinent about an informant's activity, [31] including involvement in violence. [32]

2. Rowe's Handling Agents

Special Agent Barrett Kemp developed Rowe as an informant in 1960 and became Rowe's first agent handler from 1960 to June 1961. [33] Kemp said he put everything Rowe told him into his informant file. [34] Kemp warned Rowe many times to stay out of violence and told him the FBI would not help him if he was caught breaking the law or engaging in violence. [35] While Kemp recalled that informants were not supposed to engage in violence [36] or burn crosses, [37] he did not consider an informant's taking part in violence as "touching upon his credibility . . . or his reliability." [38]

Because Rowe was providing such valuable information on Birmingham klan groups, especially after gaining a leadership

30. Id., 93.

31. Id., 34.

32. Id., 35.

33. Barrett Kemp Interview by Task Force, Mar. 9, 1979, passim.

34. Id., 84.

35. Id., 80.

36. Id., 35.

37. Id., 74-75.

38. Id.

position within the klan hierarchy, [39] Kemp suggested that the Bureau would have suffered a great loss by terminating his services. [40]

After Kemp resigned from the Bureau to enter private law practice, Byron McFall was Rowe's agent handler until McFall's retirement in December 1963. [41] McFall considered Rowe to be the FBI's most valuable klan informant in Birmingham [42] because of his ability to get close to klan leaders. [43]

Although he advised Rowe not to engage in klan violence, McFall recognized that Rowe considered these instructions impossible to follow. McFall told Rowe that he should "stay with" the klansmen doing the violence until he could break away and report it to the FBI. [44] Although McFall tried to monitor Rowe's reports by examining the reports of other klan informants, he never told Rowe that he had other klan informants. [45]

Former agent J. Brooke Blake handled Rowe for about ten months from late 1963 until September 1964. [46] He received

39. Id., 35.

40. Id.

41. Byron McFall Interview by Task Force, Mar. 7, 1979, passim.

42. Id., 8.

43. Id.

44. Id., 12-13.

45. Id., 37.

46. J. Brooke Blake Interview by Task Force, Feb. 22, 1979, passim.

instructions on handling informants at the FBI Quantico Training School, [47] and from the FBI handbook, Manual of Instructions, and from other agents. [48]

Blake considered Rowe an important klan informant, as demonstrated by the fact that Rowe received regular payments, whereas other informants were generally paid only when they provided information. [49]

Blake developed a close personal relationship with Rowe, [50] and made "him realize that he was an 'operative' for the government," [51] because Rowe fancied his role as a law enforcement officer and liked to feel as if he was an FBI agent. [52]

Blake tried to confirm Rowe's reports through other sources of information [53] and never completely trusted Rowe. "You hoped [informants] would follow your guidance and [the agent would] pray a lot." [54] When Blake caught Rowe making a report that was inconsistent with other informant

47. Id., Vol. I at 12.

48. Id., Vol. I at 11.

49. Id., Vol. I at 10.

50. Id., Vol. I at 12-13.

51. Id., Vol. I at 40.

52. Id., Vol. I at 41.

53. Id., Vol. I at 39.

54. Id., Vol. II at 88-89.

reports, he would not confront Rowe "unless it was an extreme discrepancy" and involved "an actual act of violence." [55]

Although Rowe was told not to instigate violence and to stay out of policy or "action-making" positions in the klan, Blake encouraged him to get into the "action squads" who were committing the violence in Birmingham at that time. [56] As to Rowe's involvement, Blake explained:

I don't know for sure if he was involved in violence, but if he's a good informant, he's got to be with the group. He may have to take a punch or a swing as an action team is moving in. So I would caution him [as to] what certain levels of violence he should become involved in. [57]

While Blake coached Rowe "not to be a leader in violence and take a low-key part in it," [58] Rowe was allowed to hit people and throw fists and, in Blake's words, "his fist was probably as dangerous as some dangerous weapons, and as I recall, he was trained in judo or karate or something." [59] He had to engage in this limited violence, Blake reasoned, to keep his cover as an informant. [60] Rowe had to participate in occasional acts of violence so that he could report on violent crimes, "but if he was out every night, making it

55. Id., Vol. II at 90.

56. Id., Vol. I at 16-18.

57. Id., Vol. I at 22.

58. Id., Vol. I at 25.

59. Id., Vol. I at 27.

60. Id., Vol. I at 28.

a habit, I am sure I would have called him to task." [61] Blake maintained that Rowe "probably" would have ignored an order to stop fist fighting. [62] Nevertheless, he warned Rowe not to instigate violence, [63] since such conduct would have constituted an embarrassment to the Bureau. [64] Blake was confident that Rowe did not instigate violence because Rowe knew "he'd be in hot water and that I would report him." [65]

Initially, Blake informed the Task Force that he made whatever Rowe told him a matter of record, [66] but later amended this by saying that he did not make a record of Rowe's reports that he had "thrown fists" because to stay in the klan "action groups" and to keep furnishing information, he had to "do something" violent. [67] While Blake conceded that FBI Headquarters may not have wanted Rowe to get into fist fights, he stated that this position was unrealistic:

It would be totally stupid and ridiculous for me as a field agent that I ought to have a good informant, that had to stand out in a crowd and not do anything, if he was in a position reporting violence. I would tell the inspector or supervisor he's out of his mind and [should] find somebody else to handle [Rowe]. [68]

61. Id., Vol. II at 31.

62. Id., Vol. I at 28.

63. Id., Vol. I at 17. Vol. II at 8, 31.

64. Id., Vol. II at 3.

65. Id., Vol. I at 42.

66. Id., Vol. I at 26.

67. Id., Vol. I at 27.

68. Id., Vol. I at 29-30.

Blake insisted that he received no guidance from Headquarters or his field supervisors on what to put in Rowe's file about reports that he took part in violence. [69] However, Blake maintained that he recorded reports when Rowe did "anything more serious" than use his fists in klan fights. [70]

Neil P. Shanahan was Rowe's last handling agent, from September 1964, and throughout the time he served as a witness in the Liuzzo murder and civil rights trials. Shanahan received FBI training on handling informants, consulted the FBI Manual, and drew on the experience of other agents. [71]

When he started handling Rowe, Shanahan was told that Rowe was the most valuable source of information the FBI had in the klan. Rowe was "our ace in the hole" [72] at getting "the most accurate, the best, the up-to-the-minute information." [73] Rowe's information was used to see that the klan "disbanded and no longer functioned as an organization which would commit murder, violence, [and] mayhem." [74]

Shanahan told Rowe that there was no justification for an informant to engage in "affirmative acts" of violence such

69. Id., Vol. I at 30.

70. Id.

71. Neil Shanahan Interview by Task Force, Feb. 27, 1979, 8-9.

72. Id., 27.

73. Id.

74. Id., 10.

as "fomenting turmoil and violating the law." [75] Shanahan repeatedly instructed Rowe to "be there, up front, on deck. Observe, and . . . do not participate in any violence." [76] Yet Shanahan recognized that it was difficult to tell Rowe to be where the violence broke out without having a hand in it. [77]

Shanahan reported all information from Rowe he considered "pertinent to [the FBI's] overall mission." [78] Nobody in the Bureau ever advised him that he had to record in FBI files reports that Rowe had committed violence, [79] although he probably would have done so. [80] Shanahan believed he had sole discretion and "was the judge" as to what to put in Rowe's file and to communicate to others within the Bureau. [81]

3. Other FBI Agents

Robert Murphy, the agent who handled informant "Huey Lipscomb," [82] recalled that official Bureau policy was for informants to avoid violence or "bad deeds." [83]

75. Id., 37-38.

76. Id., 38.

77. Id., 57.

78. Id., 40.

79. Id., 41.

80. Id., 31, 34.

81. Id., 33.

82. Robert Murphy Interview by Task Force, Mar. 8, 1979, passim.

83. Id., Vol. II at 21.

But in the real, everyday world, it's pretty hard to report on something unless you're there ... And [if] it turns into a full-fledge melee, ... it's pretty damned hard not to get involved because you're going to, in all probability, be defending yourself, if nothing else.[84]

Murphy contended that a specific report that Rowe had been involved in "missionary work" and had taken part in beating up black people was:

[A] piece of trivia as far as I'm concerned ... at that point in time. There was no violation of Federal law; there was nothing we could act on; there was nothing we could do.[85]

He further believed that referring such matters to local prosecutive authorities would not have resulted in any prosecutive action at that time in Birmingham. "It was almost a foregone conclusion that prosecutions of white men did not take place as long as they visited their violence upon black men, and it was that very thing that we were attempting to change and to move." [86] Murphy was required to report immediately to the SAC any incidents of violence by informants.[87]

4. The Views of Informants

Of the nine klan informants interviewed, we found none who said that the FBI encouraged them to take part in klan violence.

84. Id.

85. Id., Vol. I at 46.

86. Id., Vol. II at 53.

87. Id., Vol. I at 6, 16.

Thomas Owenton was told that whenever possible he should avoid engaging in violence and steer others away from it.[88] Fulton Roebuck could not recall his handling agent ever instructing him about taking part in violence, but he would have considered such a warning unnecessary because he claimed never to have engaged in violence.[89] Both Roebuck[90] and Spaulding Rutledge[91] did not expect any preferential prosecutive treatment on account of their FBI relationships.

Norwood Ensley remembers the FBI telling him that if he engaged in violence, he did so at his own risk.[92] While his handling agent, C. B. Stanberry, advised him to carry a gun when around other klansmen, Ensley was advised only to use it in self-defense.[93]

Cliff Vanderbilt recalls his handling agent telling him to avoid violence. [94] He said his handling agent told him about tablets, which he never used, [95] to make himself sick if he needed an excuse to avoid it. [96]

88. Thomas Owenton Interview by Task Force, Feb. 10, 1979, 4.

89. Fulton Roebuck Interview by Task Force, Feb. 8, 1979, 43.

90. Id., 51.

91. Spaulding Rutledge Interview by Task Force, Feb. 9, 1979, 1.

92. Norwood Ensley Interview by Task Force, Feb. 10, 1979, 3.

93. Id., 3-5.

94. Cliff Vanderbilt Interview by Task Force, Feb. 8, 1979, 15-16.

95. Id., 15.

96. Id.

5. Rowe's Views

When Gary Thomas Rowe started working as an informant he was told to gather information about everything which related to the klan including planned or actual violence.[97] "Don't do nothing, don't say nothing; just stand back and report what happens. Stay out of it [violence]."[98] At the second state trial, Rowe testified when asked whether anyone at the FBI suggested that Rowe commit violence:

Quite the contrary. I have been instructed numerous of [sic] times: 'Do not antagonize, participate, do not get involved in any violence.' [99]

Rowe stated that these instructions changed when the FBI concluded that Rowe was not getting information about planned violence merely through attending the klan's open klavern meetings. Rowe was instructed to "get closer" to the klansmen who met in a small group after the meetings.[100] Following this instruction, Rowe began to participate in violent acts.[101] Rowe swore that he never, however, instigated violence[102] and was told not to plan it either.[103]

97. Intelligence Activities: Hearings Before the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, 94th Cong., 1st Sess., Vol. VI at 116 (1975). (Statement of Gary Thomas Rowe, Jr.) [Hereinafter Senate Select].

98. Gary Thomas Rowe Interview by Task Force, Feb. 20-21, 1979, Vol. I at 83. My Undercover Years in the Ku Klux Klan, 13, (1976).

99. State v. Wilkins, No. 155, Cir. Court of Lowndes County, Ala., Oct. 1965 at 618-19 (Rowe Testimony).

100. Senate Select, supra n. 97 at 117.

101. Id.

102. Rowe Testimony by Task Force, supra n. 98, Vol. I at 55.

103. Id., Vol. II at 262.

Rowe told the Task Force that he reported to his handling agent each time, to use his words, he "whipped an ass." A few times the FBI asked why he had done so, and he replied:[104]

What the hell am I going to do, when we're all out there fighting like hell? And I'm going to stand over here to the sideline and take names? I'd stand out like a sore thumb.

Rowe recalls the FBI specifically instructing Rowe to "stay away" from bombs.[105]

Rowe contends that at some point in his career as an informant, the FBI declared war on the klan. He was told to "do whatever has to be done to disrupt the klan." [106] After this "declaration of war," Rowe was told that agents no longer had to cover up Rowe's participation in violence. He could commit beatings on buses and at restaurants with blackjacks, chains, and pistols.[107] In order to obtain the information the FBI needed from the klan action squads, he said in his book that he had to participate to the extent the others did:[108]

Anyone the [klan] activists thought was timid, they naturally would have nothing to do with, and before a man can gain entry to these squads, he must be accepted on their terms.

104. Id., Vol. I at 53.

105. Id., Vol. II at 72.

106. Deposition of Gary Thomas Rowe, Jr., Senate Select Committee to Study Government Operations with Respect to Intelligence Activities, 12, Oct. 17, 1975 [Hereinafter Senate Deposition].

107. Id.

108. My Undercover Years in the Ku Klux Klan, supra n. 98 at 52.

Rowe claims that whenever he engaged in this type of violence, he would inform his handling agent, either orally or in writing. [109]

6. The Danger of "Exposure"

In understanding the FBI's handling of Rowe, the reader should understand that Rowe may have had to do and say things merely to avoid being identified as an FBI informant. Most klan informants and FBI agents we interviewed maintained that informants if exposed, stood to lose their lives. [110]

To dispel suspicion, informants were forced to resort to unconventional and unpredictable behavior. Special Agent Murphy told us that when Huey Lipscomb was seen talking to him, Lipscomb later told the suspicious klansmen that he was conspiring with the FBI to obtain a list of all informants the FBI had planted in the klan. [111] Thomas Owenton, who associated with one of the klan's most dangerous persons, said he deliberately talked like an "agitator" to appear as mean as his klan associates were. [112] Norwood Ensley resorted

109. Rowe Interview by Task Force, supra n. 98, Vol. I at 50-53.

110. Murphy Interview by Task Force, supra n. 82, Vol. II at 45. Owenton Interview by Task Force, supra n. 88 at 4. Womack Interview by Task Force, Feb. 19, 1979 at 8. Ensley Interview by Task Force, supra n. 92 at 7. Huffman Interview by Task Force, Feb. 3, 1979, at 7. Vanderbilt Interview by Task Force, supra n. 94 at 20. Shanahan Interview by Task Force, supra n. 71 at 68, 232. Blake Interview by Task Force, supra n. 45, Vol. I at 31.

111. Murphy Interview by Task Force, supra n. 82, Vol. II at 10.

112. Owenton Interview by Task Force, supra n. 88 at 5.

to talking like a "rabble-rouser" at klan meetings to avoid suspicion and conceded that this talk may have sounded like he was inciting violence, although he said he never actually suggested beating up blacks.[113]

Cliff Vanderbilt[114] said that the klansmen frequently tested others to see if they could figure out who among them was an informant. He said he was able to avoid suspicion by engaging in the following conversation, which he acted out for our benefit, pretending he was at a klavern meeting:
[115]

Vanderbilt: This country is in one hell of a shape. And that damn Johnson up there is not helping matters any at all. All the hell he is trying to do is just turn the country over to the niggers and the communists. As a matter of fact, I think, he is more or less controlled by the communist forces himself. Obviously, they must have some kind of hold on him to make him do the things that he is doing to our country today. The communists once said that they would take this country over and never fire a shot, and damn, if I don't believe that Johnson is helping them do it.

Task Force: What should we do about it?

Vanderbilt: Well, it is kind of hard now, you can't go up there and shoot the bastard because you'd get caught before you got there, so what we're going to have to do now, we're going to have to beat them at the polls. We're going to have to get out here and convince people that they need to clean house up there in Washington from top to bottom, and get some people elected in there that has got some sense, and some white people instead of these communists.

113. Ensley Interview, supra n. 92 at 8-9.

114. Vanderbilt Interview by Task Force, supra n. 94 at 20.

115. Id., 21-24.

Task Force: You think we ought to beat some of the sympathizers down here?

Vanderbilt: That might not be a bad idea. As a matter of fact, it might come to that.

Task Force: Will you take part in it if it does?

Vanderbilt: I keep my shotgun oiled up at all times.

Task Force: So you're ready?

Vanderbilt: I'm dead ready, and I'll tell you something else, we'd better all oil up our shotguns and we'd better get us some supplies of ammunition on hand and keep it home because the day is coming when we're going to have to get out there and fight like hell; and blood is going to run like water in the streets before this thing is over, and I'll tell you one damn thing, for sure, I'm not giving this country to the niggers or to the communists either without one hell of a fight, and if I run out of ammunition, I'll throw rocks at them.

APPENDIX III

HANDLING FBI INFORMANTS

C. CURRENT RULES AND REGULATIONS

On December 15, 1976, then Attorney General, Edward H. Levi promulgated instructions designed to govern the FBI's use of informants in domestic security and criminal cases [Levi Guidelines]. [1] The guidelines recognize that informants are a lawful and often essential tool in law enforcement investigations, [2] but attempt to insure that the government, through its informants, does not itself become a violator of the law. [3]

Agents are required to instruct their informants that in carrying out their assignments, they shall not:

1. participate in acts of violence; or
2. use unlawful techniques (e.g., breaking and entering, electronic surveillance, opening or otherwise tampering with the mail) to obtain information for the FBI; or
3. initiate a plan to commit criminal acts; or
4. participate in criminal activities of persons under investigation, except insofar as the FBI determines that such participation is necessary to obtain information needed for purposes of federal prosecution.

Whenever the FBI learns that persons under investigation intend to commit a violent crime, informants used in connection with the investigation shall be instructed to try to discourage the violence. [4]

1. Memorandum from the Attorney General to the Director, FBI, Dec. 15, 1976.
2. Id., 1.
3. Id.
4. Id., 3.

The FBI is ordinarily required to notify appropriate law enforcement or prosecutive authorities upon learning that an informant has violated these instructions in furtherance of his assignment[5] or has committed a serious crime which is unconnected with his FBI assignment. [6] When the FBI considers such notification inadvisable, it is required to notify the Department of Justice of the facts and circumstances surrounding the informant's violation and to recommend whether the informant's services should be continued. [7]

The current FBI Manual of Instructions incorporates the above instructions[8] and highlights them elsewhere. [9]

Section 137-3 of the Manual sets forth the rules for developing informants. Before operating an informant, the field office must obtain review and approval from Headquarters by submitting basic biographical information on him, including his local arrest record, and past criminal activity. [10] The field is not required, however, to certify that a prospective informant is unlikely to participate in violence or engage in unauthorized criminal activity.

5. Id.

6. Id., 4.

7. Id., 3-4.

8. FBI Manual of Instructions, §137-13.

9. FBI Manual of Instructions, §137-4 (3)-(5).

10. FBI Manual of Instructions, §137-2.

The Manual requires all information "pertinent to our investigative responsibilities furnished by informants" to be "promptly reviewed, recorded, indexed, evaluated, and channelized, and all other necessary action taken." [11]

11. FBI Manual of Instructions, §137-6(1).