

MEMORANDUM

To: Joan Zimmerman

From: Dan Wedemeyer, Intern

Date: July 28, 1995

Re: The FBI Having Exclusive Jurisdiction to Investigate Assassinations

The Congressional Record entry you referred me to was most likely 111 **Cong. Rec.** 20,239 (1965) (see attached), where the House was considering Senate amendments to H.R. 6097, 89th Cong., 1st Sess. (1965) (see attached) on August 12, 1965. H.R. 6097 amended Title 18 of the United States Code to provide federal penalties for the assassination of the President.

The language you mentioned was the House consideration of Senate amendment No. 3 to H.R. 6097. Senate amendment No. 3 read “[v]iolations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.” H.R. 6097 passed both houses as amended, becoming Pub. L. No. 89-141, and Senate amendment No. 3 is codified at 18 U.S.C. § 1751(i) (1988) (see attached).

Legislative Intent

The Senate report on H.R. 6097 states “[t]he purpose of amendment No. 3 is to make clear that the Federal Bureau of Investigation shall have jurisdiction over the investigation of violations of this act” **S. Rep. No.** 498, 89th Cong., 1st Sess. 2 (1965) (see attached). Reporting amendment No. 3 to the House, Representative Rogers stated that “the amendment does not diminish the existing authority and responsibility of the Secret Service for the protection of the President or Vice President or for making arrests for violations of this act.” 111 **Cong. Rec.** 20,239 (1965) (statement of Rep. Rogers). Making the effort to emphasize that amendment No. 3 did not affect the Secret Service’s protective role or ability to make arrests implies that the amendment did in fact preclude them from investigation.

While the above statements probably indicate that Congress intended the Federal Bureau of Investigation (FBI) to control the investigation of a presidential assassination, the language of § 1751(I) and other parts of the legislative history of H.R. 6097 create some possible doubt that the FBI has exclusive jurisdiction. The first sentence of § 1751(i) could be interpreted to indicate simply that if there is a presidential assassination, the FBI is compelled by law to investigate (“shall”), with

nothing in the language precluding other entities from investigating as well. Then-Attorney General Katzenbach indicated that the purpose of amendment No. 3 was to remove any State or local grounds for jurisdiction once “Federal investigative or prosecutive jurisdiction” was asserted. **S. Rep. No. 498** at 7 (letter from Attorney General Nicholas deB. Katzenbach to the Vice President). He made no specific mention of the FBI.

No hearings were held on the Senate amendments and there was no floor debate on them, so it is unknown why the Senate chose the language for amendment No. 3 that it did or if it intended the FBI to have exclusive jurisdiction. The House held hearings on H.R. 6097 as it read prior to amendment, however, and no one that testified before the subcommittee indicated that they felt the FBI should have exclusive jurisdiction. Hearings on H.R. 6097 Before Subcomm. No.1 of the Comm. on the Judiciary, 89th Cong., 1st Sess. (1965). The experts testifying, including Warren Commission members Hale Boggs and Gerald Ford and Warren Commission General Counsel J. Lee Rankin, gave no indication that they believed the FBI should have exclusive jurisdiction, although many did refer to the FBI when they discussed federal investigation of a presidential assassination. Id.

CONCLUSION

When Senate amendment No. 3 was drafted and approved by Congress, the intent appears to have been to assert the supremacy of federal jurisdiction over state or local jurisdiction in investigating the assassination of a president, not to assert the supremacy of the FBI over other federal entities. Regardless, the language of § 1751(i) would most likely be interpreted to give the FBI original jurisdiction over the investigation and the power to decide which, if any, agencies they would call upon to assist.