

United States v. Carlos Marcello, et al.

Criminal File Docket No. Cr. 80-274 (racketeering)

Trial: April-August, 1981

Judge Sear

Anne Investigation Memo

The FBI conducted eight months of Title III electronic surveillance on Carlos Marcello in 1979 and 1980. The BriLab case went to trial in 1980. During the trial, the judge sealed 3-4 of the many, many audiotapes (163) because they were unduly prejudicial.

Jeremy Memo

The case file -- nine boxes of pleadings files and trial transcripts from U.S. v. Marcello -- has been in the FRC in Fort Worth, Texas. TJG reviewed the nine boxes while he was in New Orleans in the Federal Courthouse. Only found two minor references to potential assassination related material: apparently contained in tapes from 6/25/79 (see, pp. 7-8 of the transcript, which makes reference to the HSCA report) and and 7/18/79 (see, p. 3 of the transcript, which makes reference to the "Kennedy Report.")

Clerk at the Federal Courthouse told Jeremy that Judge Sears may have additional materials either in chambers or in a separate filing system, as he kept BRILAB materials under his control.

One of the prosecutors of the case, Albert K. Winter, told Jeremy that he did not remember Kennedy assassination material in the tapes or transcripts. Winter told Jeremy that he thought that the most likely source for an index of the transcripts and knowledge about the location of the transcripts would be the FBI in New Orleans.

South Texas Law Review

Blakey complained that wiretap recordings were withheld from the HSCA in the late 1970s. Interview with Blakey -- PBS "Frontline." Also see John Davis, The Kennedy Contract at 221-22 (1993).

John Davis, The Kennedy Contract

A law enforcement official told Blakey that the tapes contained materials relevant to Carlos Marcello's possible involvement in the assassination.

Anthony Summers, Conspiracy

Summers says that only 3 tapes have been sealed and not released to Davis. Blakey told Summers that he (Blakey) heard that one of the tapes contained an incident in which a visitor to the Town and Country asked Marcello how he would respond to the HSCA's suspicions of him. Marcello simply told the man to shut up. Then there was the sound of a chair being pushed back, and of the two men walking out of the room. The last words picked up by the microphone had Marcello telling his visitor that this was something to be discussed outside, away from possible surveillance.

Ronald Goldfarb, "Did the Mob Kill JFK? It's Time to Find the Answer Before It's Too Late"

Goldfarb calls for the Review Board to obtain and make public the BriLab tapes, a half dozen FBI wiretaps of Carlos Marcello. Believes FBI agents have BriLab tapes.

Ronald Goldfarb, Perfect Villains, Imperfect Heroes

An assistant director of the FBI told Blakey that, at the time of the HSCA investigation, the FBI had 1350 reels of tapes of Marcello.

2/12/88 Memorandum from Ross at "OEO" to Moschella at FBI FOIA section

Reviewed 24 boxes of materials from that trial, but did not locate transcripts of any intercepts identifiable as being used in the trial against Carlos Marcello. (that is not to say that they did not locate other types of transcripts of Marcello.)

States that the "New Orleans Strike Force" located the Government's Play List and the FBI's Exhibit List for tapes utilized in the trial of U.S. v. Marcello. The search also located approximately 1/3 of the intercepts that were used at trial. "It would appear that, by identifying them from the Play List and the Exhibit List, the remaining tapes can be duplicated from the master tapes *which must be in the possession of the FBI.*"

States that he is forwarding "both the lists and the tapes to you for direct response to the requester."

3/17/88 DOJ's Motion to Dismiss or for Summary Judgment

States that Davis filed his FOIA request with the New Orleans field office of the FBI for the BRILAB tapes on 10/28/86. On 11/4/86, the New Orleans field office told David that they did not have the materials -- that the materials were in Fort Worth, Texas, at the FRC. Told Davis to direct his request to the FOIA unit of the criminal division at DOJ, which Davis did.

2/29/88: DOJ delivered two cartons containing 43 tapes to FBI HQ. Included with the tapes were two lists: (1) FBI Exhibit List, and (2) Government's Play List." "However, neither the labels on the tapes nor the running times of the tapes corresponded with the entries on these lists. the tapes bore no markings or any other indication of what portion, if any, of each was played at trial."

Contacted three people involved with Marcello's prosecution to try to determine what had happened:

- (1) Harold Hughes
Organized crime coordinator in N.O. field office during BriLab investigation and trial.
Did not know which tapes or portions thereof were played at trial.
Said he believed that Eades Hogue had prepared the Play List.
- (2) Eades Hogue
DOJ OC Strike Force Lawyer who was principal prosecutor at the Marcello trial.
Said that the "Play List" was a summary of info. re: 163 tapes which he anticipated that he would seek to introduce into evidence during the Marcello trial.
Some tapes were not introduced into evidence, while other tapes, not on the list, were introduced. (In other words, the list tells us very little about what was played at trial.)
Said that the court's exhibit list would probably be a better source of info.
Remembered that some tapes were sealed.
- (3) John Fleming
NO field office. Operated the recording equipment used to play the tapes at trial.

Four composite tapes containing excerpts of the play list conversations were assembled before trial. Not all composite tapes were played at trial.

“SA Fleming had no record of which tapes or portions thereof were deleted, or which tapes or portions thereof in addition to those on the play list were played.”

“He added that he believed that at least some portions of the tapes were ordered sealed because of conversations on them concerning the assassination of President John F. Kennedy.”

(4) Warren Jung

SA -- FBI's principal legal advisor in the New Orleans field office. Searched the boxes from the Marcello trial remaining in the Court's custody. Did not locate any information that indicated which tapes, or portions thereof, were actually played during the trial. Did not locate any information which indicated whether the tapes were sealed.

The clerk told him that the **trial clerk's minutes might identify the tapes played, but would not identify the portions of tapes withheld.**

3/17/88 Declaration of Chris J. Flynn

FBI Special Agent in FOI/PA in 1988. In New Orleans Field Office during the investigation and prosecution of Marcello in the BriLab case.

4 of the 43 tapes delivered to the FBI by DOJ were composite tapes. In the 39 remaining tapes, there were 46 conversations identified on the play lists as exhibit items.

1/19/89 Motion for Leave to File Amended Complaint

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