


Memorandum

TO : Files

DATE: June 5, 1975

FROM : Nick ~~Akerman~~


SUBJECT: Investigation Into The Assault On Anti-War Demonstrators
On The Capitol Steps On May 3, 1972

An extensive investigation was conducted by this Office into an assault on antiwar demonstrators on the west steps of the Capitol on May 3, 1972, allegedly perpetrated by Bernard Barker and a group of nine Miamians. This investigation was comprised chiefly of office interviews with some interviews conducted by the FBI. The grand jury was only used when a witness was of particular importance or when a witness had significant evidence to add to the investigation.

The antiwar demonstration in question had been billed as a drama/liturguy on "the Air War" and featured an array of antiwar notables including Daniel Ellsberg, William Kunstler, Sister Elizabeth McAllister and Judy Collins. This demonstration and assault coincidentally coincided with the public viewing of former FBI Director J. Edgar Hoover's coffin in the Capitol Rotunda, a short distance from the site of the antiwar demonstration.

The initial decision to investigate this matter was made in early July, 1973 by Phil Heymann who was then working with Bill Merrill to establish the various investigations of the Plumbers Task Force. Heymann assigned this investigation to me. After August, 1973, when Jay Horowitz started work, both Horowitz and I worked on this project.

In early July, 1973, this Office had the following significant sources of information on the assault: (1) Newspaper reports indicating that Barker and his group had engaged antiwar demonstrators in a fight and, most significantly, a Washington Post story of June 1, 1973, which claimed that Charles Colson had been behind an effort to disrupt this demonstration; (2) FBI interviews of several of the Cuban-Americans who had been at the demonstration.

These interviews had been requested by the original Watergate prosecutors. Some claimed that their presence at the Capitol was solely for the purpose of paying homage to J. Edgar Hoover, but there were others who indicated that their only goal was to attack long-haired demonstrators, in particular, Ellsberg and Kunstler; (3) Bernard Barker's grand jury testimony of April 4, 1973. He testified that he and his group were not at the demonstration to beat up demonstrators, but that they were there on orders from E. Howard Hunt to assist the police in controlling the demonstrators; (4) Bart Porter's grand jury testimony of August 10, 1972. He testified that Magruder had instructed him to give G. Gordon Liddy, \$5,300 in campaign funds to cover a demonstration on Capitol Hill and that Liddy later returned \$2,000 to Porter.

Heymann's decision to investigate this incident was based primarily on the alleged involvement of Charles Colson, CRP officials, Liddy, Hunt and the Cuban-Americans. Heymann at the time was particularly focused on the Cuban-Americans some of whom had been involved in the Fielding burglary and who three weeks after the demonstration illegally entered the Democratic National Committee Headquarters at the Watergate complex. Heymann's concern over the activities of the Cuban-Americans resulted from press reports alleging that in addition to the Fielding and Watergate burglaries, Hunt's Cuban friends had been involved in a number of other illegal break-ins. For this reason it was felt that all of the activities of the Cuban-Americans should be carefully investigated. Thus, at the same time I was assigned the investigation into the assault, I was also assigned the investigation of the Chilean Embassy burglary which allegedly was the target of an illegal entry by three of the same Cuban-Americans approximately 10 days after the antiwar demonstration.

It subsequently developed that Colson became the prime target of this investigation. As the investigation progressed, it was felt by both me and Horowitz that even if a case were not made out against Colson, an investigation of this assault might provide useful evidence against Colson in the Watergate cover-up if it could be shown that Colson was dealing with Hunt and Liddy three weeks before the first Watergate break-in. Similarly, it was believed that useful evidence on Colson might also be developed for the Fielding trial if it could be established that Colson was carrying out his vendetta against Ellsberg eight months after the Fielding burglary. Finally, this incident was determined to be significant in that part of Liddy's original \$1 million dollar plan included mugging squads to rough up demonstrators.

Heymann and I decided that the investigation would at least in its initial stages encompass a number of interviews to be conducted by ourselves and the FBI. The more significant witnesses, Porter and Magruder, were to be interviewed by us and witnesses of questionable significance or those who resided a long distance from Washington, D.C., e.g. the Miamians, would be interviewed by the Bureau. On July 16, 1973, an Investigative request was sent to the FBI asking the Bureau to conduct a number of interviews.

When major figures in the Watergate cover-up were initially interviewed by the Watergate Task Force, they were afterwards referred to me and Phil Heymann for questioning on a whole series of Plumber's related activities including the assault on demonstrators. These witnesses included Jeb Magruder, E. Howard Hunt, Fred LaRue and Robert Reisner.

The first significant evidence in this investigation was provided by Jeb Magruder in an interview on July 26, 1973. He said that Charles Colson telephoned him prior to the demonstration requesting Magruder to instruct Ken Reitz, CRP's Youth Chairman, to organize a counterdemonstration with Nixon youth volunteers and to recruit people to protect these counter-demonstrators. Magruder contacted Liddy for the guards and Liddy in turn contacted Colson. Magruder subsequently instructed Porter to furnish funds to Liddy who needed to "bring up some guys" */ Magruder's telephone conversation with Colson was corroborated by Robert Reisner, Magruder's Administrative Assistant, who had been sitting in Magruder's office when Colson called.

On August 7, 1973, Colson was interviewed in this Office, and he flatly denied any knowledge of any White House or CRP activities relating to this particular demonstration. Colson subsequently appeared before grand jury number two on August 31, 1973, where he was questioned by Bill Merrill. Colson, however, was not interrogated about the facts surrounding the assault. This was a major tactical error since Colson would have likely repeated his denials in the grand jury -- denials which would

*/ In later interviews Magruder further recalled that Colson wanted these "guards" to capture a Viet Cong flag from the demonstrators. Magruder's most detailed account of this incident is found in his book entitled, "One Man's Road To Watergate".

later be proved false by new evidence uncovered during the course of our investigation. As will be explained in the course of this report, the evidence ultimately developed by this investigation would not be sufficient to indict Colson for crimes relating to the assault but would have been sufficient to indict him for perjury if he had denied knowledge of this incident under oath in the grand jury.

There were basically four reasons why Colson was not questioned about this incident in the grand jury. First, the major focus in Colson's August 31st grand jury appearance was the Fielding burglary. The evidence against Colson in the California burglary was considered to be marginal and for that reason his testimony was quite significant. Second, although Colson was questioned about areas other than the Fielding burglary, e.g., the Robin Ficker letter and the plans to firebomb Brookings Institute, there were so many allegations relating to Colson that it could not be expected that he would be questioned about all of these allegations in one grand jury session. Indeed, it was contemplated that Colson would testify in additional grand jury sessions in which these other allegations would be explored. Unexpectedly, Colson decided to assert the 5th Amendment after his first grand jury appearance. Third, Bill Merrill was focused solely on the Fielding case and was pretty much indifferent to all of the other Plumber's investigations. Any rationale ordering of priorities would have placed questioning Colson about this assault ahead of questioning him about the Robin Ficker letter and the Brookings Institute, particularly since Colson had at that point been contradicted by one significant witness, Jeb Magruder. In fairness to Merrill, however, it was not expected that Colson would take the 5th Amendment.

During the month of August I undertook two other projects. One was to establish conclusively that an assault had actually occurred by interviewing victims of the assault and other anti-war demonstrators. With the assistance of Daniel Ellsberg's attorney, Leonard Boudin, several of these demonstrators were located. Two demonstrators who had been assaulted, Ted Lieberman and Michael Segal were interviewed on August 15, 1973 and August 30, 1973, respectively. They confirmed the newspaper reports that antiwar demonstrators had been punched and attacked by a group of individuals who appeared to be of Latin origin. During this same period of time three of the demonstrators who witnessed the assault, Teri Simon, Forrest Lindley and Jacquelyn Barish were interviewed by me over the telephone or in my office.

The second project was an attempt to locate possible film clips of the demonstration taken by news organizations. There was some indication in Bureau interviews of the Cuban Americans that a film crew may have photographed the assault. In an investigative Request dated August 15, 1973, I asked the Bureau to follow up certain leads relating to the possible filming. I, however, personally contacted various television stations and discovered that CBS had in fact filmed this particular antiwar demonstration. It was decided by me and Phil Heymann that I should contact the television stations rather than the Bureau since it was felt that any dealings with newsmen were particularly sensitive and subject to misinterpretations. On August 20, 1973, I viewed the CBS film in their Washington office but found no reference to the assault or the counterdemonstration. Later in the investigation we learned that one of the counterdemonstrators had actually appeared in a news clip of the demonstration on a local TV station. I again contacted every television station in the Washington area but was unable to locate this film which had apparently been destroyed in the normal course of operations.

In August I also began receiving the reports of the Bureau's interviews with the Cuban-Americans who had been present at the demonstration. In those interviews where the individuals had admitted that they were told by Barker to assault the demonstrators, the Bureau agents had not ferreted out all of the facts surrounding these instructions. In order to establish conclusively that orders to assault had been given, I felt it was necessary to interview in person at least one of those who admitted attacking the anti-war demonstrators.

On August 27, 1973, Jill Volner and I traveled to Miami principally for the purpose of following up a lead on a diary maintained by one of the Watergate burglars, Eugenio Rolando Martinez, (also involved in this assault) but I also took that occasion to interview Reynald Pico, one of the Cuban-Americans recruited by Barker for the demonstration and the first entry into the Watergate complex. Pico told me that prior to the demonstration Barker displayed pictures of Ellsberg and Kunstler and told the group that their mission was to break up the demonstration and beat up some of the demonstrators, including particularly Ellsberg and Kunstler. This account was later corroborated by several of the other Miamians. In this connection Pablo Fernandez admitted to me and Horowitz that he had punched several of the demonstrators.

By the beginning of September, 1973, this investigation became more structured and Horowitz and I developed a working hypothesis that the assault and counterdemonstration were both instigated by Charles Colson for the purpose of disgracing Ellsberg, Kunstler, and the other antiwar demonstrators. If the assault and counterdemonstration could succeed in disrupting the demonstration which was taking place next to Hoover's coffin, the leaders of that affair could easily and reasonably be depicted in the press as immature and insensitive to the feelings of "patriotic" Americans who had come to pay tribute to Hoover and who were rightfully indignant about the "peaceniks". Separate and apart from this motivation was that of simply having Ellsberg beaten up.

This hypothesis was formulated from two factors. First, Colson's White House memoranda concerning Ellsberg and the anti-war movement reflected Colson's disgust for those opposing the Vietnam War and his view that these people were traitors of the highest order. This contempt evolved into a personal vendetta as reflected in one White House memorandum of August 1971 in which Colson clearly expressed his desire to "paint Ellsberg black in the press." Second, this particular demonstration brought together two very explosive elements -- the anti-Administration, anti-war demonstrators and the more likely pro-Administration mourners who came to the Capitol that same evening to pay their respects to a patriotic American, J. Edgar Hoover, who was a symbol of the political right. With Colson's public relations orientation it was extremely likely that he would have tried to take advantage of these two explosive factors to create media exposure which would portray Ellsberg and the anti-war demonstrators in a highly unfavorable light.

On the basis of this hypothesis it was decided to interview members of Charles Colson's staff, CRP employees and counterdemonstrators who might be knowledgeable about the demonstration, counterdemonstration or the assault with the ultimate goal of uncovering evidence of Colson's involvement. Media people at the White House and CRP were also interviewed on the theory that Colson or a member of his staff might have personally tried to arrange for press coverage of this event. In this connection White House officials such as Pat Buchanan and CRP officials such as DeVan Shumway were questioned.

Initially, CRP employees including top officials, their assistants and secretaries and participants in the counterdemonstration were interviewed. The task of interviewing the counterdemonstrators became so burdensome that the Bureau on November 15, 1973, was asked to conduct interviews with approximately 15 counterdemonstrators and to pursue leads arising from these interviews.

In addition to the counterdemonstrators and the demonstrators, other individuals present at the demonstration were interviewed. The Capitol police who had detained and then released three of the Cuban-Americans were interviewed in October, 1973. Because the Bureau had originally failed to locate these police officers, I had to spend the afternoon of October 10, 1973, at the Headquarters of the Capitol Police questioning a large number of policemen who were on duty during the evening of the May 3rd demonstration to find the particular officers who had detained the Cuban Americans.

Also present at the demonstration were observers from the FBI, the Intelligence Divisions of the Metropolitan Police Department (MPD) and the Mayor's Command Center. Three FBI Agents who were covering that demonstration as part of the Bureau's surveillance of the New Left were questioned. They had witnessed the assault and were able to identify some of the Miamians through mug shots.

Sergeant John Farrell of the MPD was interviewed on November 13, 1973, and he stated that some of the counterdemonstrators were members of the Vietnam Veterans For A Just Peace (VVJP). This was significant in that VVJP was a Colson backed organization. This lead was pursued unsuccessfully through Bureau and office interviews. With respect to the Major's Command Center, the two observers from that agency, X-Ray-1 and X-Ray-2 were interviewed on October 11, 1973, but neither could remember the demonstration.

The significant witnesses interviewed in September and October were, Ken Reitz and Carl Rove. These two witnesses gave us direct leads to Colson. Reitz was interviewed by Horowitz and me on September 19, 1973, at which time Reitz stated that one of the individuals who requested him to recruit counterdemonstrators was William Rhatican, a member of Charles Colson's staff. On September 26, 1973, Carl Rove, an employee of the Republican National Committee and one of the counterdemonstrators, revealed that John Lofton, editor of Monday, the Republican National Committee's Weekly Magazine had lead the counterdemonstrators with a bullhorn.

On October 3, 1973, both Rhatican and Lofton were interviewed in this Office. Lofton admitted to his participation in the counterdemonstration and to regular contacts with Colson in the Spring of 1972 but claimed he could not recall being contacted by Colson or anyone in Colson's office to

participate in the counterdemonstration. Rhatican, however, did admit one very significant fact -- that Colson had assigned him to make certain arrangements for the Hoover funeral on May 4, 1972, including telephoning police officials around the country to participate in the funeral proceedings. Both men were subpoenaed to testify in the grand jury the following day where they both essentially reiterated the stories they gave in the office interview.

As a result of Rhatican's admission that he had been assigned to handle the Hoover funeral arrangements, Horowitz and I decided to interview all those who might conceivably have had contact with Rhatican on this project. Our theory was that if Rhatican had been involved with the Cuban-Americans presence at the Capitol, he might have mentioned the planned violence to those he had contacted for the Hoover funeral arrangements which included Hoover's casket lying in State in the Capitol Rotunda on May 3rd. In this connection Steve Bull who had given this assignment to Rhatican was interviewed on October 13, 1973. Officials at the Capitol including the Assistant to the Speaker of the House and the Architect of the Capitol were questioned by me about the arrangements for public viewing of Hoover's casket in the Rotunda. Two members of Vice President Agnew's staff whom Rhatican testified he may have called, C. D. Ward and Walter Mote, were interviewed. Cooper T. Holt of the VFW whom Rhatican also claimed he might have called was interviewed on October 23, 1973, and the army official Paul Miller, who was in charge of the ceremonies for the Rotunda, was interviewed on November 1, 1973. None of these efforts provided any worthwhile leads.

After the Rhatican and Lofton interviews, a request for White House documents was drafted and sent on October 10, 1973, to Fred Buzhardt. The only documents we received were a White House entry log for John Lofton for May 2nd and a copy of Rhatican's weekly report to Colson dated May 5, 1972. A search of the White House files, however, was not made. If such a search had been conducted, we would have received a highly significant memorandum from Colson to Magruder dated May 1st. This memorandum is discussed below. It is hard to speculate what value this memorandum would have had on our investigation in late 1973.

The next significant break in this investigation occurred on October 8, 1973, in an interview with Roger Showley, a former employee of the Republican National Committee, and one of the counterdemonstrators. Showley stated, and subsequently testified, that on or about May 3rd Bill Rhatican had made several telephone calls to him requesting him to recruit counter-

demonstrators for the Capitol Hill antiwar demonstration. Rhatican told Showley, among other things, that there might be violence, but that he and the other counterdemonstrators should stay clear of it and attempt to make themselves and their signs as visible as possible to the news media which would be covering this demonstration.

Immediately after Showley testified on October 10, 1973, I began interviewing a large number of employees at the Republican National Committee to corroborate Showley's testimony. Several witnesses recalled Showley's participation in this demonstration and one witness, Kathy Winter even recalled trying to locate a bull horn for John Lofton to use at the demonstration.

At a much later date, approximately December 21, 1973, Horowitz and I decided it would be worthwhile to subpoena the Republican National Committee (RNC) for documents which might relate to the participation by Republican Party personnel in this demonstration. Because Hank Ruth raised the political problems which might be created by the subpoena, I contacted Harry Dent, Counsel for the RNC, and worked out an arrangement whereby the RNC voluntarily searched their files for relevant documents. None were found.

Based on Reitz's and Showley's testimony, Horowitz and I concluded that Rhatican had committed perjury in his grand jury appearance. The major problem with such a perjury prosecution was the fact that Horowitz in questioning Rhatican in the grand jury purposely refrained from asking Rhatican too many questions about the demonstration with the idea that if Rhatican ever became a witness for us, we would not want to create too many prior inconsistent statements on which he could be cross-examined. The other problems we had were Rhatican's "I don't recall" responses to the questions instead of flat denials and the fact that we could only prove that Rhatican lied about organizing a lawful counterdemonstration. Neither Showley nor Reitz could testify to any conversations with Rhatican about the Miamians presence at the demonstration. */

*/ All of these issues are discussed in Horowitz's memorandum to the files dated December 27, 1973, Subject, "Perjury Charges Against William Rhatican."

These problems aside, Horowitz advised Rhatican that he was in trouble as a result of his grand jury testimony and that he should retain counsel to represent him before this Office. Rhatican followed this advice and on November 6, 1973, David Austern, Rhatican's attorney, was told that we were contemplating indicting his client for perjury. Although no decision had been reached as to whether a viable prosecution could be brought, Akerman and Horowitz decided that the threat of a prosecution might be enough leverage to bring Rhatican around as a government witness.

At the same time we were dealing with Rhatican and Austern, we continued interviewing other witnesses and pursuing other leads. Richard Howard, Colson's Administrative Assistant, was questioned before the grand jury on November 8, 1973. He denied any recollection of or participation in the demonstration, counterdemonstration or assault. Other Colson staffers who had been interviewed up to that period of time were Douglas Hallett on August 23, 1973, Mel Stevens, on September 29, 1973, Ken Kachigian on November 5, 1973, Howard Cohen and Pat O'Donnell on November 20, 1973 and Henry Cashen on December 11, 1973. All of these people claimed they knew nothing about Colson's role in the demonstration.

At about the same period of time we were also interviewing witnesses who would be knowledgeable about the activities of the Cuban-Americans with the hope of uncovering leads back to Colson. Howard Hunt was reinterviewed on November 16, 1973, and in addition to Hunt other individuals associated with Hunt's Watergate activities were questioned. Alfred Baldwin, the former FBI agent who monitored the Watergate bugging was interviewed on November 16, 1973. James McCord was interviewed on September 18, 1973. Douglas Caddy, the lawyer who first represented the Cuban-Americans was interviewed on November 7, 1973. All of these interviews failed to provide any useful leads.

On November 23rd, Austern telephoned Horowitz and told him that Rhatican did recall possibly recruiting counter-demonstrators, but that he had no knowledge of the assault on Hunt and the Cuban-Americans. Austern also set forth several other matters that Rhatican could tell us about involving Colson and Howard which related to possible illegal campaign mailings and the possible illegal expenditures of Federal funds and grants. Without prompting or any suggestion from Horowitz, Austern stated that Rhatican would allow himself to be wired in a conversation with Colson and would submit to a polygraph

examination to prove his innocence with respect to any knowledge of the Cuban-Americans or the assault. It was decided by me, Ruth and Horowitz that Rhatican should not be wired simply because the crimes associated with Watergate were connected to electronic surveillance, i.e., the bugging of Democratic National Committee Headquarters, and that for appearances sake we should not engage in any sort of legal bugging. Arrangements, however, were made for Rhatican to take the polygraph test.

On December 15, 1973, Rhatican took the test which was administered by FBI agents. When questioned about Hunt's Cuban-Americans, Rhatican failed the test and before he started making admissions to the FBI agents, Horowitz and I entered into negotiations with Rhatican's attorney, Axel Kleibomer, Austern's law partner, whereby it was agreed that Rhatican would be interviewed, but none of his statements could be used against him. Furthermore, we would not be able to pursue any leads obtained from Rhatican's statements.

Rhatican then proceeded that same day to relate several conversations with Colson and Richard Howard, Colson's administrative assistant, about the demonstration, counter-demonstration and the assault. Rhatican stated that there was an initial meeting with Colson and Howard in which Colson instructed Rhatican to recruit counterdemonstrators from CRP to disrupt the antiwar demonstration. The closest Colson came to indicating any desire for violence was when he said that it would be fine "if a couple of heads are knocked," meaning that it would be fine if a fight erupted. Colson also instructed Rhatican to arrange for friendly congressmen to make statements in support of the President and against the demonstrators. Howard was instructed to contact John Lofton to cover the event for Monday and to have the press notified of the pro-Nixon presence in order that they receive proper media coverage.

Rhatican subsequently reported back to Colson about his problems at CRP in recruiting people for the demonstration. Colson indicated that he would get E. Howard Hunt to bring up his "boys" from Florida. Colson explained in some detail to Rhatican that by virtue of his CIA activities, and, most notably, his Bay of Pigs involvement, Hunt commanded the unquestioning allegiance of a number of men in Florida who would

"do anything Hunt desired." It was Rhatican's impression that Hunt and his group would disrupt the Ellsberg rally. Rhatican, however, could not testify to any direct orders to assault.

Among the other significant conversation which Rhatican related was one which occurred after the demonstration. In a conversation with Colson and Howard, Colson referred to Frank Sturgis, one of the Miamians who attended the demonstration and one of the Watergate defendants as a "stand up guy." Colson was talking about the President's support in middle America for his Vietnam policy and, by way of an example, cited Sturgis as the kind of "guy we need." Colson applauded Sturgis as a patriot for yelling "traitor" and for his general performance at the Capitol Hill demonstration. Colson also made some mention of the fact that Sturgis had piloted a plane over Havana in defiance of the Castro regime.

Despite Rhatican's admissions, consideration was still given to indicting him for perjury. As part of this process, we met with Rhatican and his attorney on several occasions to flush out exactly what Rhatican's testimony against Colson would be. In a memorandum to the files dated December 27, 1973, Horowitz outlined the viability of such a perjury case against Rhatican. Because of problems inherent in any perjury case and because of the primary interest in Colson, Rhatican was granted immunity. On February 6, 1974, under conditions of use immunity Rhatican testified in the grand jury about Colson's role in the demonstration.

Throughout these dealings, Rhatican was faced with a dilemma. The more testimony he provided on Colson the more inclined we would be to grant him immunity in order that we could use him as a witness against Colson. On the other hand, the more he implicated himself in the assault, the more culpable he would appear and the harder it would be for us to grant him total immunity. As it turned out, Rhatican neither implicated himself nor Colson in any illegal conduct.

From a position of hindsight both Horowitz and I agree that it was very likely that Rhatican never told us the entire truth. This is born out by the fact that Reitz and Showley both testified to more of an expectation of violence at the demonstration than Rhatican ultimately testified to, that Rhatican for some strange reason was missing his White House

notes for the period of time covering the demonstration and that just recently Rhatican was hired as the chief public affairs officer in the Department of Interior, possibly we conjecture with assistance from Colson. At the time we made the deal with Rhatican, however, there was no way to verify whether or not he was telling us the entire truth.

In addition to internal office decisions resulting from the Rhatican situation, our dealings with Rhatican created the first press inquiries about this investigation. Bob Woodward from the Washington Post called Jim Doyle to check out a rumor that Colson would be indicted for his activities directed at the demonstration as a result of Rhatican's testimony. As it turned out, this story never appeared in the Post. Another story concerning my interview of Bill Hauck, Commander of the American Legion, appeared in a March 6, 1973, Jack Anderson column. Hauck had been interviewed because Rhatican claimed he probably telephoned Hauck to recruit American Legionnaires to attend the counter-demonstration. This article totally misrepresented the facts of the interview and the investigation.

After the deal was made with Rhatican two other investigative avenues were pursued. One was to continue interviewing former members of Colson's staff. These interviews were as follows: Don Rogers, Colson's man in charge of Labor, on January 29, 1974; Joan Hall, Colson's former secretary on February 1, 1974, Desmond Barker, who had coordinated press announcements from the Federal agencies, on February 5, 1974; Kathleen Balsdon, former head of Colson's mailing operation, on April 27, 1974; and Michael Bolzano, Colson's liaison to ethnic groups, on July 18, 1974. The only evidence obtained from these interviews was from Balsdon and Bolzano who corroborated the fact that Rhatican was recruiting counterdemonstrators.

The second line of strategy was to focus on Richard Howard who, according to Rhatican, was quite knowledgeable about this incident. Howard's grand jury denials relating to the demonstration were also contradicted by Porter and Magruder who stated that they had short conversations with Howard about the demonstration on May 4, 1972. In addition to the activity surrounding the demonstration, Rhatican told us about a number of mailing and leafletting projects which Howard had been involved in which might have been possible violations of 18 U.S.C. § 612, a misdemeanor for not properly identifying political literature. Horowitz and I decided that we should develop the evidence on these mailings and then ask Howard to testify in the grand jury about both the mailings and again about the

demonstration. We had hoped to use the threat of possible prosecutions on his testimony about the demonstration and his involvement in the mailings and leaflets as leverage to convince Howard to testify against Colson on matters surrounding the assault.

I spent most of March, 1974, interviewing White House and former CRP employees about the mailings and leaflets. Several individuals, including Joseph Baroody, a partner in a local public relations firm who had handled a number of these projects were put before the grand jury. I also subpoenaed materials from two printing companies which had printed the political literature in question. Kathleen Balsdon who had been in charge of Colson's mailing program was granted immunity on April 18, 1974, to testify about her knowledge of these Colson mailings. She was granted immunity because of her minor role in the mailings, and more importantly, her attorney would not allow her to talk to us without immunity. */ After a fairly detailed investigation, I concluded that Howard might be involved in one or two violations of § 612. With respect to one of the leafletting projects, we had terminated the investigation short of proving that the leaflets had actually been distributed. Further investigation, however, would have likely established that there had been distribution.

On May 16, 1974, Howard testified in the grand jury and was questioned about Rhatigan's Magruder's and Porter's testimony about the demonstration. He was also questioned about the mailings and leaflets. Howard again denied any knowledge of facts surrounding the demonstration. With respect to the mailings, he admitted an awareness of the projects but denied the involvement necessary to make out any criminal violations.

On May 21, 1974, Horowitz and I met with Jude O'Donnell, Howard's attorney, to tell him that this Office was considering an indictment of Howard for his testimony on the demonstration and that we might possibly refer the § 610 violations to the local United States Attorney for prosecution. Both of these threats were somewhat hollow since our perjury case was not that strong and the mailing and leafletting violations were not that significant. **/ On May 30th, O'Donnell reported back to us that Howard had nothing to add to his testimony but continued his claim of ignorance about the demonstration.

*/ See Memorandum to Leon Jaworski, Henry S. Ruth, from Nick Akerman dated April 10, 1974, subject, "Request for Immunity for Kathleen Balsdon."

**/ See Memorandum to Leon Jaworski, Henry S. Ruth, William Merrill, from Jay Horowitz and Nick Akerman dated 2/21/74, subject, "Perjury Charges Against William Richard Howard."