

JFK ASSASSINATION SYSTEM

IDENTIFICATION FORM

AGENCY INFORMATION

AGENCY : HSCA
RECORD NUMBER : 180-10110-10238

RECORDS SERIES :
TRANSCRIPTS OF EXECUTIVE SESSION HEARINGS

AGENCY FILE NUMBER :

DOCUMENT INFORMATION

ORIGINATOR : HSCA
FROM :
TO :

TITLE :
EXECUTIVE SESSION

DATE : 03/16/77
PAGES : 72

SUBJECTS :
HSCA, ADMINISTRATION
TRAFFICANTE, SANTOS

DOCUMENT TYPE : TRANSCRIPT
CLASSIFICATION : U
RESTRICTIONS : OPEN IN FULL
CURRENT STATUS : O
DATE OF LAST REVIEW : 08/16/93

OPENING CRITERIA :

COMMENTS :
Box 1.

INTERNATIONAL

REPRESENTATIVES

EXECUTIVE SESSION

Washington, D. C.

March 16, 1977

AMERICAN OVERSIGHT BOARD

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COMMITTEE MEETINGS
EXECUTIVE SESSION

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1248
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WEDNESDAY, MARCH 16, 1977

U. S. House of Representatives,
Select Committee on Assassinations
Washington, D. C.

The Committee met, pursuant to recess, at 11:20 ~~o'clock~~
a.m., in Room 2167, Rayburn House Office Building, the
Honorable Louis Stokes, (Chairman of the Committee) presiding.

Present: Representatives Stokes (presiding), Preyer,
Fauntroy, Burke, Dodd, Fithian, Edgar, Devine, Anderson,
McKinney and Thone.

Also present: Richard A. Sprague, Chief Counsel and
Staff Director.

The Chairman. While you get together on that, I can
proceed with something else.

At this time I am going to ask Congressman Preyer to
give us a briefing with reference to the budget situation.

Mr. Preyer. Chairman Stokes and I met yesterday with
John Dent, pursuant to the request of the Budget Committee,
and I think had a very good meeting. He agreed that the best
approach would be to go for a full year's funding rather than
an incremental funding approach which he originally suggested,

1 as long as it can be under \$3 million.

2 We proposed to show him a yearly budget which was \$3.2
3 million, and went down the items, and when we got to the travel
4 item, we pointed out that that was a speculative item, that
5 we couldn't ^{1/17} we had very little to go on by which we
6 figured that amount. So ~~that~~ he immediately said: "I don't
7 like speculative figures in budgets, and I suggest that you
8 reduce that to \$300,000 or \$400,000, and you can come to me
9 at any time that you need to have travel above that amount,
10 and I will guarantee you that on a voucher we will give it to
11 you." He said, "that is the way I prefer to handle the budget."

12 So doing that, if we reduce the travel figure such as we
13 discussed, to \$400,000, it brings the budget down to something
14 like \$2.76 million.

15 Tom Howardth has given me, unfortunately which I have left
16 at the office, a new set of figures on the budget which I
17 will send around to you, which comes out to something like
18 \$2.7 million. John Dent says that is very satisfactory
19 with him. He thinks it will be satisfactory with the other
20 members of the House Administration Committee. He wants to
21 pass it by them before we announce it publicly, and so I
22 hope we won't put that figure out, but we haven't had a
23 formal meeting of the Budget Committee since then. I have
24 talked to a number of members. I ^{don't think} have ~~talked~~ talked to Stew,
25 ~~about it~~ about it, so maybe the Budget Committee

1 would first want to formally adopt that approach, and then
2 we can at some point you think is proper, Mr. Chairman,
3 adopt it publicly in the Full Committee. But I do think at
4 this time we shouldn't adopt it publicly until Mr. Dent has
5 had a chance to talk to his committee members about it.

6 ¶ But I might ask, if there are any members of the Budget
7 Committee, I will send the figures over to you. Perhaps it
8 is not fair to ask you to comment or to vote on it right now,
9 but at least I can ask if that general approach is agreeable
10 to the Budget Committee.

11 Mr. McKinney. I would agree.

12 The Chairman. ~~And also we will sit with the~~
13 ~~at some point now and get this okay on it also.~~

14 Anyone have any questions on this matter?

15 Mr. Devine. Mr. Chairman, as a member of the Accounts
16 Subcommittee on House Administration, I will do my best to
17 justify your extravagance.

18 [General laughter.]

19 The Chairman. That's great, Sam.

20 Floyd?

21 Mr. Fithian. Yes, Mr. Chairman, I don't sit in on the
22 Subcommittee Task Force on the Budget, so I don't have any
23 questions on the budget. I do have a question as to how
24 specifically we are going to deal with this. In a little while
25 this morning I will be suggesting a contact system between

1 members of the Committee and members of the House, and I am
2 wondering, Mr. Preyer, at what point do you see the budget
3 becoming public information?

4 Mr. Preyer. I would think that the first meeting we might
5 have next week would probably be an appropriate time to make it
6 public.

7 Mr. Fithian. Will you then $\frac{1}{H}$ is it the general intention
8 to present the budget for a full vote in a public session of
9 the Committee, thereby making it public, or will this be after
10 or before you have talked to the leadership? I am trying to
11 figure out the timing on this.

12 Mr. Preyer. I would hope it would be after. I have heard
13 I think some of us on the Budget Committee would like to have
14 a chance to present it to the leadership, perhaps to key
15 members of the Rules Committee before it became public.

16 Mr. Fithian. So then what you are asking basically is if
17 we start our contact one on one of other members that we not
18 at least answer their query on the budget as to exactly what
19 it will be, or just hold off on that kind of information until
20 you have made it public?

21 Mr. Preyer. I would hope that we could.

22 Mr. Fithian. Thank you.

23 The Chairman. Okay, any further questions?

24 Okay, then I think a consensus has been expressed that
25 members are in accord with this approach, Mr. Preyer.

1 // Okay, we now have some report regarding the committee
2 whip system, and Mr. Fithian, either you or Mr. Dodd or both
3 of you, can comment on that?

4 [That portion of the hearing which followed here has been
5 excerpted for continuity and can be found beginning at
6 page 11.]

7 Mr. Fithian. Would it be possible, to jump the track
8 from this particular subject, but is it possible for the ~~Committee~~
9 to convene after a luncheon recess and come back and pursue
10 this until it is finished?

11 I think this is a major part of the reconstitution
12 battle.

13 The Chairman. Can we have unanimous consent to come
14 back this afternoon?

15 Mr. Devine. Yes, Mr. Chairman. I have a Republican
16 leadership meeting at 1:30. It should be over with within an
17 hour, so if the meeting could be around 2:30 that would
18 accommodate this particular member.

19 Mr. McKinney. Well, Mr. Chairman, I will be out of town.

20 Mr. Dodd. I have a Rules Committee, and I know John
21 Anderson does at 2 ~~00~~ o'clock.

22 The Chairman. Well, how long do you think that will take?

23 Mr. Dodd. Not very long. There is only one matter up
24 and ~~_____~~

25 Mr. Delaney has a tendency to move things along.

1 The Chairman. Is 3~~30~~ o'clock acceptable?

2 Mr. Fithian. Mr. Chairman, I ask unanimous consent that
3 we meet here at 3~~30~~ o'clock, or that we stay here a few minute
4 longer to ask pertinent questions on the testimony that was
5 presented here this morning.

6 The Chairman. All right, without objection, we will
7 do that.

8 And we will skip over now and go to the other matter.

9 Mr. Sprague. Mr. Chairman, I think it will be a different
10 hearing room this afternoon. We will have to let you know.

11 Mr. Devine. The hearing room?

12 The Chairman. S-407 they had for us to go into executive
13 session on.

14 Well, why don't we meet in Mr. Devine's office.

15 Mr. Devine. It is 2206.

16 Mr. Dodd. Why don't we try to get the Rules Committee?
17 It is on the House side.

18 Why don't we do it in the Rules Committee.

19 Mr. Devine. All right, why don't we check that out and
20 we will let each other know on the floor.

21 The Chairman. All right, we will try the Rules Committee
22 and if not, we will ^{meet} ~~do it~~ in Sam's office.

23 All right, can we proceed with the other matter?

24 Mr. Edgar. Mr. Chairman, I know probably the other
25 members here have questions, and I wonder if Mr. Sprague

1 might reflect upon the testimony this morning and the comments
2 that were made about invoking the ~~Fifth~~ Amendment and
3 other pertinent information that he feels is necessary for
4 us to know about the witness that was before us today?

5 Mr. Fithian. A parliamentary inquiry, Mr. Chairman.

6 The Chairman. Yes.

7 Mr. Fithian. Would it be possible for the recorder, by
8 unanimous consent, to put this portion of this executive
9 meeting ahead of the discussion we have already had so the
10 discussion we have already had, plus the continued discussion
11 on Mr. Sprague, might be in one continuous location in order
12 that we can present that to the Congressional Record if the
13 Committee so chooses?

14 The Chairman. I would think that by unanimous consent,
15 that the reporter is instructed to so organize the material.

16 The Reporter. Yes, sir.

17 The Chairman. Thank you.

18 All right, Mr. Edgar.

19 Mr. Edgar. I wonder if Mr. Sprague might reflect on
20 the witness that appeared this morning and what future direction
21 we hope to go with his testimony.

22 Mr. Sprague. The immediate thing that is necessary for
23 us is to obtain from the intelligence committee, the Senate
24 Intelligence Committee, the testimony that Rosselli gave
25 to them concerning this witness. There is also, as I indicated

1 an interview that was had with this witness by two Senators
 2 on behalf of the ^{Senate} Intelligence Committee, at which no notes
 3 or testimony were taken, but there is a summary as to what
 4 was presented there. It is necessary in answering the question
 5 that we have access to that.

6 ¶ I have also learned that this same witness had testified
 7 before a Grand Jury in New York. This is back in Frank Hogan's
 8 day, with regard to matters in Cuba at that time, and he was
 9 given the grant of immunity, and it is necessary that we obtain
 10 that testimony, again in order to determine the next step.

11 Obviously the most immediate thing that could be done
 12 would be for this Committee to vote to seek immunity for this
 13 witness, which really then means a petition is presented to the
 14 Attorney General, who has no discretion in the matter. He is
 15 just acting administratively in your behalf to get a court
 16 decree requiring this witness to then testify, and if he does
 17 not testify, he goes to jail.

18 The problem with that is, we I don't think want to be
 19 in the posture of granting a witness such as Mr. Trafficante
 20 immunity. There is a danger to the extent of his involvement,
 21 in having given immunity to someone as involved at higher
 22 levels, so that what I would like to see done first is to
 23 obtain what we know about what has been said concerning him
 24 under oath, and what he has at least said before. We have
 25 been trying since the other day to get the records from the

1 CIA. They advised us last night that they cannot turn over
2 anything at this time until we have gone through security
3 clearance, but also until we have signed the appropriate non-
4 disclosure agreement, and I might just say that is basically
5 pretty much the position now with the Justice Department.

6 // If I can digress a second and bring to your attention
7 what I think is going to be a real problem in the security
8 clearance kind of agreement that we have prepared for going
9 through with the Justice Department and the CIA. We have
10 kept out of that agreement provisions concerning non-disclosure
11 because as we see it, here there is going to be really a
12 conflict. They are interested in the non-disclosure of material
13 as we see it, one of the purposes of this Committee may well
14 be to disclose, and a problem is going to arise that if the
15 only way in which we get access to material, even though it is
16 classified, and we are cleared for getting classified material,
17 if we make a commitment that that which we obtain cannot be
18 disclosed, that flies in the face of what may be one of the
19 purposes of this investigation.

20 I am bringing that to your attention because that is, I
21 think, very shortly going to loom as a problem.

22 Mr. Fithian. Mr. Chairman?

23 The Chairman. Mr. Fithian? Mr. Edgar?

24 Mr. Edgar. Mr. Chairman, I still have a couple more
25 questions, unless ^F_Aloyd has something pertaining to this

1 particular matter.

2 // Mr. Dodd. Do we want to go off the record?

3 The Chairman. Off the record.

4 [Discussion off the record.]

5 [Hereinafter follows that which was referenced on page 5.]

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1 // Mr. McKinney. Mr. Chairman, could I ask a point of personal
2 request?

3 I unfortunately have got to leave here at 12:00 sharp.
4 There is no way I can get out of it, and I was wondering if
5 I could hear counsel's presentation on the case, first, because
6 I can catch up on the rest. I don't want to disrupt the whole
7 proceeding.

8 Mr. Fithian. That is no problem here.

9 The Chairman. Well, fine, why don't we do that.

10 Also, I understand that we have to be out of this room by
11 about 12:15 because they have a 12:30 committee meeting in
12 here. So we will have to proceed as expeditiously as possible,
13 Mr. Sprague.

14 So we will yield at this point to Mr. Sprague for his
15 presentation.

16 Mr. Sprague. Thank you, Mr. Chairman.

17 I can speak without the microphone. Can you all hear me?

18 Taking up the various statements that were made by
19 the previous chairman, Mr. Gonzalez, if I may take them up in
20 a certain order, Mr. Gonzalez on February 16th, 1977, made the
21 statement at a press conference following a Committee hearing,
22 and subsequently included in the Congressional Record the
23 statement that I improperly abused my official position and
24 influence in exchange for compensation, in violation of House
25 Rule XL-111, Clause 3. Mr. Gonzalez stated in the Congressional

1 Record, it was in the press conference, as follows: "It
2 seems at least possible if not likely that Mr. Sprague, owing
3 to his considerable outside activities, stands in violation
4 of rule XL-111, Clause 3."

5 ¶ That clause reads as follows: ¶ A member, officer, or
6 employee of the House of Representatives shall receive no
7 compensation nor shall he permit any compensation to accrue to
8 his beneficial interests from any source, the receipt of which
9 would occur by virtue of influence improperly exerted from
10 his position in Congress. ¶

11 This is an attack, I guess, saying that I received some
12 bribe or something, funds for influence peddling. There has
13 not been one statement by Mr. Gonzalez as to the basis of
14 that. It is patently false. I don't know how I disprove a
15 negative except to say that any private income that I have
16 received have all been incomes from clients that I have had
17 before I ever took the position with this ~~C~~Committee, and I have
18 not had one new client that I have obtained since I have been
19 working for this ~~C~~Committee. So any income is income I was
20 receiving on the basis of work done prior thereto. That is
21 the response, and only response I can give to that accusation.

22 Mr. Dodd. Mr. Chairman, on that point, before we go
23 in and do it all at once, do you plan on taking on any new
24 clients or have you been approached by any, or what is your
25 reaction to any potential new clients who come forward during

1 the tenure of this ~~Committee~~'s existence?

2 // Mr. Sprague. I intend to take clients if the work that
3 has to be done on their behalf can be done by my firm and is
4 in no way related to anything involved with this ~~Committee~~.

5 Mr. Dodd. What I am getting at is do you plan to be
6 working on cases? One, you have got the Yablonski case
7 coming again apparently. Are you going to be involved in that
8 to any extent?

9 Mr. Sprague. That is getting into a separate area which
10 I was going to get into. In the event I am still on this
11 ~~Committee~~ as ~~Chief Counsel~~ and ~~Director~~, and this ~~Committee~~ is
12 continuing, I have already advised the authorities that I will
13 not retry the Yablonski case. I do not think I can take
14 that duty on while continuing here, in answer to that.

15 Mr. Dodd. Then I guess as an example, assuming that your
16 firm takes on clients that may come to the firm, passing through
17 you, do you see yourself or plan on working on cases that may
18 come into your office during the tenure of this ~~Committee~~'s
19 existence?

20 Mr. Sprague. I intend to work on matters in that office
21 to the extent that that work does not interfere to what are
22 my time commitments here.

23 I can give as an example, I teach at law school, Temple,
24 on Fridays from 5 ~~00~~ ¹⁵ ~~00~~ 7 ~~00~~ p.m., one day a week. To the
25 extent that I can be there to teach, I do so. Unfortunately,

1 this semester, which commenced at the beginning of February,
2 the end of January, I have already missed four Fridays because
3 of the press of matters down here.

4 ¶ Now, when I can make it, I intend to make that, and that
5 will get into another point that I want to take up.

6 Mr. Dodd. You are going to touch on that one, the teaching?

7 Mr. Sprague. Yes; I am, but the first point was that
8 influence peddling charge by Mr. Gonzalez.

9 In that same statement at that press conference on February
10 16, 1977, Mr. Gonzalez charged that I violated House Rule
11 116(a)(3)(b), and also he included this in the Congressional
12 Record. Mr. Gonzalez stated as follows: ¶ Mr. Sprague appears
13 to maintain an active law practice with offices at 1622
14 Locust Street, Philadelphia, ~~Pennsylvania~~, and furthermore he
15 is engaged in the teaching of law at Temple University, also
16 in Philadelphia. It is plain that since the rules of the
17 House apply to this Committee, Mr. Sprague is in clear violation
18 of the requirement that he have no outside employment. ¶

19 House Rule 116(a)(3)(b) reads in pertinent part as
20 follows: "The professional staff members of each standing
21 committee shall not engage in any work other than committee
22 business."

23 The first part of my response there is that rule
24 specifically refers to standing committees in terms of its
25 own applicability. It is inapplicable to select committees.

1 Secondly, the ~~House~~ Resolution 222, under which we are
2 presently authorized, which establishes this Select Committee
3 on Assassinations, specifically exempts this Committee from
4 the provisions of House Rule 116(a), which I dare say Mr.
5 Gonzalez knew when he made the statement .

6 But thirdly, and perhaps more importantly, this has to
7 go back to the basis upon which I was asked to take the posi-
8 tion of Chief Counsel and Director. When I was contacted in
9 the first place, we had for the then Chairman Mr. Downing,
10 my response was to state that I would only consider taking the
11 position on a number of conditions. Some of the conditions
12 would not be material to this point, but one of the conditions
13 was that it be agreed that I be permitted to continue in my
14 private practice and in my teaching to the extent that I felt
15 that those commitments of my law practice and teaching would
16 not conflict in time commitments with my work here. That is
17 to say that I would have to recognize, which I volunteered,
18 as a matter of fact, that my number one priority in terms of
19 time would be this position. To the extent, while giving
20 this number one priority, I was able to continue with my other
21 matters, I would be permitted to do so.

22 When I gave that as one of the conditions under which
23 I would consider accepting this position, I was advised by
24 Mr. Downing that that condition would be agreed to. Not-
25 withstanding that statement, I stated I do not want this being

1 something you have agreed to. I want this something that is
2 agreed to by the person who is going to be the succeeding
3 chairman of this committee. At that time I was advised that
4 it was expected that Mr. Gonzalez would be the next chairman
5 of the committee. I then met with Mr. Gonzalez before accepting
6 the position, stated that as one of the conditions, among
7 others, stated to him that I did not want to be in the position
8 where he was merely ratifying me as the nominee of the then
9 Chairman Mr. Downing. I wanted it to be on the basis of he
10 himself as the future chairman stating at that time that he
11 wanted me to be chief counsel and director, and that that
12 condition, among the other conditions, was agreed to as a basis
13 of my accepting the position.

14 Mr. Gonzalez advised me that yes, he wanted me, and he
15 agreed to that condition. In addition, I met with Mr. Fauntroy,
16 because again I wanted it understood, the basis upon which
17 I would be coming here, and I advised Mr. Fauntroy of the
18 conditions that, among others that were the basis of my
19 accepting the position.

20 When I was advised that that condition, among the other
21 conditions, was acceptable, I then said I will accept the
22 position, so that when Mr. Gonzalez then makes a public charge
23 of my being in violation of a House rules that is inapplicable,
24 which is specifically excepted, and in addition, violates the
25 specific agreement under which I took this position, I think

1 that is a strong enough refutation to that accusation.

2 Now, with regard to your question, Mr. Dodd, no, I do
3 not intend to change the basis upon which I accepted this
4 position. If this ~~C~~ommittee was to come to me today, starting
5 afresh, of course, I would have to put out of my mind what has
6 gone on in the interim as well, which might be a factor on a
7 decision on my part, but if you came to me today and asked
8 me to take this position and forego that, I would not. That
9 has been my position, and it was accepted, and it is the
10 basis upon which I am here.

11 Does that answer your question?

12 Mr. Dodd. I think it does. From the standpoint ¹/_M I
13 would be less than candid with you, however, if I didn't
14 express to you and to other members of the ~~C~~ommittee here that
15 just in my wanderings around on the floor and getting soundings
16 from the members of the Rules Committee, members on the
17 Democratic Majority, that this is a concern, and you ought to
18 be aware of it, as should the members of the ~~C~~ommittee. How
19 much of a concern, to what extent that will weigh in their
20 decision on ~~whet~~her or not to reconstitute this ~~C~~ommittee is
21 something I think this ~~C~~ommittee is going to have to come to
22 terms with, and I just want to make that point. It is a problem
23 area.

24 Mr. Sprague. Well, let me say this. I don't want to be
25 less than blunt and candid, or if you want to say abrasive,

1 however, they want to put it, I think I bring to this
2 ~~C~~ommittee and to the Congress a great degree of expertise
3 and professionalism, and I think the caliber of the staff,
4 the investigative part of that staff that exists, if I may say
5 so, in part is there because of the expertise and experience
6 on my part in knowing what kind of people to be looking for.

7 *W* I am very happy to leave this position, make no bones
8 about it. I have stayed here because of what I feel are obli-
9 gations to each of you. I have been very appreciative of the
10 fact that in a sense you have all gone contrary to the
11 way the game is played here in Washington, and I have been
12 highly appreciative, and because of that, have not wanted to
13 walk out from you. I have also not wanted to walk out from the
14 staff, but I have not the slightest reluctance in stating
15 that I am not wedded to this position. I do not think I am
16 doing myself a favor; I think I am doing you a favor $\frac{1}{M}$ by you
17 I mean the Congress $\frac{1}{M}$ with the concepts of what is involved in
18 this investigation, so that I will $\frac{1}{M}$ and I said it to Mr.
19 Stokes the other day, I give you a standing offer, I don't
20 want to be fired, obviously, but if you feel because of the
21 problems that have been created, although I do not think that
22 I have been at fault on them, but if you feel that because of
23 that I am sort of a millstone, if you feel that because of
24 attitudes of other members of Congress your ship will sail
25 the better, then you don't have to play around with me on it,

1 I am happy to submit a resignation immediately.

2 Mr. Thone. Will the gentleman yield very briefly?

3 Mr. Dodd. Just one point, and I yield to you. It
4 was never my intention, nor I think members' of this Committee,
5 to raise questions about your professionalism and so forth.
6 The problem is, as I am sure you are well aware from previous
7 discussions on this matter, that there is a perception that
8 does exist with standing members of the Congress, that staff
9 members be full-time with no outside interests. I realize,
10 you realize, and the Committee realizes, and most House members
11 realize that does not apply to Select Committees, but the
12 standard that is followed is something that I think people in
13 the Congress expect to be followed regardless of the legal
14 entity, be it a standing or select committee, and therefore
15 I bring it up, and I mention it to you in candor, and I don't
16 think in any way that ought to be attributed as a reflection
17 on your degree ^{of} professionalism. Were it that, I would have
18 raised that issue a long time ago.

19 Mr. Sprague. I don't take it that way. What I am
20 responding to is I want you all assured that I do not feel
21 wedded here. I am happy to step aside, not on the basis that
22 there is the slightest thought concerning the professionalism
23 and the ability to do a job; if you feel the problems created,
24 fine, I will step aside. The truth of the matter, even on
25 the terms under which I have accepted this position, I am

1 personally losing quite a tremendous amount of money by
2 being in this position.

3 Mr. Dodd. We all are.

4 Mr. Thone. Mr. Dodd, I just wanted to very briefly
5 reaffirm what Mr. Sprague said, and maybe you weren't at the
6 meeting ¹/₁₁ I don't recall that you were. As I remember, Mr.
7 Fauntroy was there and I know Mr. Gonzalez was there. I think
8 Lou Stokes, I am not too sure, ^{and} a couple of others, when this
9 matter was very carefully spelled out. There were some
10 questions asked about the fact of whether or not he was going
11 to devote full time to this investigation, and just as thorough
12 as he has done it now, Mr. Sprague spelled out to us at ~~this~~ ^{that}
13 time what the understanding was with Mr. Downing. And Mr.
14 Gonzalez, as I remember, left about half way through or three
15 quarters through. He is the one that called ^{the meeting and} it was a rump
16 session over there. He had another meeting ~~over there~~ and I just
17 wanted to underscore that I very clearly at that time understood
18 what the arrangement was.

19 The Chairman. Any further questions on this point?

20 Mr. Devine. Mr. Chairman?

21 The Chairman. Yes, Mr. Devine?

22 Mr. Devine. I have a question and I wonder if this
23 exercise we are going through is at Mr. Sprague's request this
24 morning. I have seen the charges. I don't have to have a
25 response to each of the individual charges that our former

1 chairman made. I don't know that any useful purpose will be
2 served unless members of the Committee have a question about
3 it, and I don't know whether you intend to go through each
4 charge that was made, and your answer. I am perfectly satis-
5 fied, based on what I know.

6 Mr. Sprague. Mr. Devine, there were two other charges
7 of Mr. Gonzalez I said I was going to respond to, and that was
8 the extent of the response to Mr. Gonzalez. Other than that,
9 I was then going to take up with the entire Committee some
10 of the matters that have been raised by Mr. Burnham in the
11 New York Times article, and what is called the Applegate case,
12 and a number of other matters that were in his article, so
13 if the members of the Committee are asked about it, they
14 at least know, at least from me.

15 Mr. Devine. I have no objections if any other persons
16 would like to hear. I was more interested in what our witness
17 this morning would have said, had he answered.

18 Mr. Dodd. Mr. Chairman, if the gentleman would yield,
19 I would just as soon, I think for the purpose of being on
20 the record, laying this all out, even though most of us have
21 been around this thing either in private sessions with Mr.
22 Sprague, or in our own settings, I think for purposes of the
23 record it is well worth our while to have this thing, to go
24 through this exercise.

25 Mr. McKinney. I just wanted to interpolate here for a

1 minute.

2 // Dick, I assume that this is all typed out.

3 Mr. Sprague. No, I am taking it from various notes.

4 Mr. McKinney. I would wonder what would be wrong in
5 this executive session if Dick were allowed to enter into the
6 record a written explanation in answer to all of these, ~~and~~
7 ~~if that written explanation were by our clerk alone hand~~
8 ~~delivered to the member alone to go into our safe and to be~~
9 ~~read~~. We have been through this exercise, the two of us
10 together, but that would give every member of the Committee
11 a full explanation, and it would also then be in the record
12 for that other option we discussed. We might have to ~~make~~ ^{make}
13 ~~at the last moment with making~~ it public.

14 Mr. Dodd. If the gentleman would yield, I can do that
15 easily, and I know all of us can here, but I think in order
16 to properly cover ourselves if we are asked by other members
17 was this explained to the Committee, did you have an opportunity
18 in closed session to question Mr. Sprague, ~~by the way~~ I
19 realize it is laborious and people have schedules to meet, but
20 I would just like to make sure that when we go up before that
21 Rules Committee, we go before the House, we don't find
22 ourselves sitting in a box, ~~and~~ I would rather be safe than
23 sorry, and if it is all right, I will stay here alone. I know
24 we all have to do things, but I think it ought to be on the
25 record, and we ought to at least have given the members of this

1 Committee an opportunity to raise any questions they may have
2 in their own minds so that I can stand on that floor and say
3 that I had every opportunity in the world in closed session to
4 question Mr. Sprague about every one of these charges. I
5 want to be able to say that with certitude, and I will feel
6 more comfortable under those circumstances.

7 The Chairman. Mrs. Burke?

8 ~~Mrs.~~ Burke. If the gentleman will yield, I agree with what
9 he is saying, but I think there are a couple of members of the
10 Committee who do have commitments, who wanted to get some
11 answers and an explanation of the testimony.

12 Is there any way we could leave this item for a few
13 minutes and have those answers and then come back at the
14 conclusion of that information?

15 Mr. Fithian. Mr. Chairman, if the gentleman will yield.

16 The Chairman. Mr. Fithian.

17 Mr. Fithian. I would fully agree with that. It is
18 obvious to me, however, going over all of the things in the
19 Congressional Record and having -- Mr. Sprague afforded me an
20 opportunity for a couple of hours in my office, I strongly
21 concur with Mr. Dodd, and I would respectfully suggest that
22 there are several questions which we ought to explore for
23 the record for purposes of dealing with this matter when the
24 time arises.

25 The Chairman. Without objection, we will recess this

1 meeting until 3~~50~~ p.m. this afternoon, and you will be
2 notified of the room.

3 9 [Whereupon, at 12:15 ~~o'clock~~ p.m., the Committee
4 recessed, to reconvene at 3~~50~~~~o'clock~~ p.m. this same day.]

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~~CONFIDENTIAL~~
AFTERNOON SESSION

(3:15 p.m.)

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2
3 // The Chairman. We will call the meeting to order at this
4 time so we might proceed. It is now 3:15 p.m.

5 A quorum is present. Thank you.

6 Mr. Sprague. Well, since a number of you might already
7 know what I am going to say, some of the others may not. Do
8 you want to wait a couple of minutes, if the purpose is to
9 let the members of the ~~Committee~~ ²/₁₉

10 The Chairman. Well, the only problem is we don't know
11 when they will get here, and time is of the essence.

12 Mr. Fithian. Mr. Chairman, when I was in the Navy as a
13 control tower operator, we had an instruction that we passed
14 on to the pilots after they landed, and they weren't getting
15 off the runway, it was expedite the roll out, and I would move
16 that we expedite the roll out.

17 The Chairman. Right.

18 All right, Mr. Sprague, why don't you proceed.

19 Mr. Sprague. Mr. Chairman and members of the ~~Committee~~,
20 on Saturday, February 12, 1977, in an issue of the New York
21 Times, an article by David Burnham, Mr. Gonzalez charged me
22 with violating ^{House} House Rule XL-1IV, which relates to filing
23 financial disclosure statements. Mr. Gonzalez stated, Mr.
24 Gonzalez accused Richard A. Sprague of violating the ~~rules~~ of
25 the House of Representatives by refusing to file a statement of

1 his outside income. The Chairman also said that Mr. Sprague
2 had refused in writing to provide him with a financial statement
3 of his outside income, which he said was required by Rule
4 44. Mr. Gonzalez reiterated this charge in a press conference
5 on February 16, 1977.

6 ¶ The pertinent provision of that House Rule XLIV reads
7 as follows: ¶ Members, officers, principal assistants to
8 members and officers, and professional staff members of
9 committees shall, by April 30 of each year, file with the
10 Committee on Standards and Official Conduct, a report disclosing
11 certain financial interests as provided in this rule. "§"

12 So the first part of my response is, there had been
13 no refusal by me to file a financial statement since no
14 request had been made of me to file one. Secondly, under
15 the rules of the House, the financial statement that is to
16 be filed, is to be filed by April 30. I obviously cannot
17 be in violation of a rule of the House which calls for a date
18 which has not yet occurred.

19 ~~Secondly~~ ^{Thirdly} I think it should be noted that Mr. Andrew
20 Whalen, Chief Counsel for the Committee on Standards and
21 Official Conduct, has advised us that the necessary financial
22 forms that have to be filled out for financial disclosure can
23 only be sent to the Committee personnel after the Chairman of
24 the Committee has advised the Committee on Standards of
25 Official Conduct, which members of the professional staff are

1 to be sent those appropriate forms. Mr. Whalen further
 2 indicated that a letter to all ~~Committee~~ committee chairmen requesting
 3 this list of personnel had not even yet been sent out by his
 4 ~~Committee to Committee~~ committee chairmen, and there was, of course,
 5 no letter by Mr. Gonzalez advising them to send me or any
 6 members of the staff appropriate financial forms.

7 ~~Secondly,~~ ^{Fourth,} I should point out, notwithstanding the House
 8 rules concerning this April 30 deadline, Mr. Gonzalez, in a
 9 letter written to me which I think each of you received copies
 10 of, a letter dated February 9, 1977, ordered that financial
 11 statements be filed no later than the close of business on
 12 February 15, 1977, a Tuesday. I would point out that Mr.
 13 Gonzalez's accusation against me in the New York Times was
 14 in an article of February 12~~th~~, when it was printed, which is
 15 ³ three days before Mr. Gonzalez's own deadline that he gave
 16 me in his letter, which was to file the appropriate financial
 17 forms by February 15. So that even accepting what he said
 18 here, he has publicly accused me of not filing it when his own
 19 deadline was February 15~~th~~.

20 In a letter of response to Mr. Gonzalez, I pointed out to
 21 him what the House rules provided. I further ¹/₁₁ and I think
 22 each of you received copies of my letter of response, I pointed
 23 out to Mr. Gonzalez that upon his advising Mr. Whalen and
 24 telling them which members of our staff, including me, he
 25 wanted to file the appropriate financial forms, that Mr.

1 Whalen said they would then send those forms to us, and I
2 stated to Mr. Gonzalez, upon receiving these forms, I will
3 see to it that they are filed prior to that April 30~~th~~ deadline.

4 7 Notwithstanding that, at no time did Mr. Gonzalez then
5 make any further response; at no time did he advise Mr. Whalen
6 to send the appropriate financial forms, and to this day that
7 has not been done.

8 So in no way again can I have been in violation of some-
9 thing which is prior to the due date, and without any forms
10 having been sent.

11 There has been no refusal to file financial forms by
12 me or any members of the staff.

13 Another charge that Mr. Gonzalez made, again in the public
14 media, the New York Times in particular, but also at his
15 press conference, he charged that \$9,000 in bills that were on
16 these vouchers that have been presented to him for last December,
17 that they were primarily for phone calls and most of these
18 calls were by me back to Philadelphia. The facts are that the
19 bills presented to Mr. Gonzalez actually totalled \$11,488.40,
20 of which \$826.85 were for telephone bills. There were many,
21 many other matters which I can submit to you which were higher
22 bills.

23 Of this \$826.85 telephone bill, my bill for calls to
24 Philadelphia was \$114.28. I might say that a number of those
25 calls, in fact, were business calls on behalf of this committee,

1 calls for members of this ~~C~~ommittee, and so forth. However,
2 I have paid personally every one of my telephone calls to
3 Philadelphia for each and every month. I have not distinguished
4 at all between a personal call or a ~~C~~ommittee call. Every one
5 of my calls I have paid for personally.

6 Mr. Devine. Whether they were ~~C~~ommittee business or
7 not, you paid them personally.

8 Mr. Sprague. Yes; I paid every call. So that again, in
9 response to that kind of accusation, and what I consider
10 frankly to be dastardly smears at me by a member of Congress
11 publicly, I state those are the facts in terms of the charges
12 by Mr. Gonzalez.

13 Other charges that have been made, I think, of the
14 financial situation that we were in with regard to having
15 gotten \$20,000 in the hole on expenses. I think that has been
16 cover^{ed} in a previous session.

17 The next area that I would like to get into, if I may,
18 has to do with the attack that has been raised by Mr. Burnham
19 in the New York Times dealing principally with an article that
20 was carried on January 2, 1977, which has frankly been the
21 basis of repetition by others, and let me take up the
22 areas covered by Mr. Burnham in that attack.

23 The headline was that I am often the target of criticism,
24 and then the article indicates that I have been subject to
25 attack and criticism by a number of reputable agencies of

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1 Government and Mr. Burnham then lists a number of matters.

2 // First, I should say, I have been a prosecutor for 17 years,
3 and to list five matters as the areas in which I have been
4 subject to criticism is to take out of context all of the
5 17 years of public service. And of course, I am not going to
6 fill this record with the many, many ~~praises~~ worthy praises that
7 have been uttered by many agencies, groups, awards and so
8 forth. I would put that on any resume, if you like. I am
9 addressing myself to these matters.

10 Mr. Burnham puts in his article, as though it is an area
11 of attack on me, a matter dealing with an evidence technician
12 called Agnes Belle Malatratt, M-a-l-a-t-r-a-t-t, as though I
13 did something wrong. He states in here, on February 24, 1967;

14 // Paul Delahante was found not guilty of homicide in a
15 Philadelphia courtroom. The principal reason for the decision,
16 a police department evidence expert named Agnes Belle
17 Malatratt, who had repeatedly testified as a professional
18 witness for the Philadelphia District Attorney's office had
19 been discovered to have lied about her qualifications and
20 training. Both Mr. Sprague and Arlen Specter, then the
21 Philadelphia District Attorney, unsuccessfully argued that the
22 misstatements by Mrs. Malatratt were of no importance because
23 she was in fact an expert witness.

24 That is put in there as one of these, and you read through
25 the article, that is one of the things that is subjecting me

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to criticism.

Now, let me tell you what that matter is about. Some numerous years before I ever went into the District Attorney's office in Philadelphia, a young girl named Agnes Malatratt applied for a position as an evidence technician in the Philadelphia Police Department, not the District Attorney's office but the police department. Now, when they asked her what her educational background was on whatever the appropriate form was that she fills out, she lied as to her educational background. At this point I do not recall whether she said she was a college graduate when she only went for a couple of years, or if she said she was even a high school graduate and she had dropped out of high school. But she did not ¹/₄ she lied about what her educational background was.

She got the job as an evidence technician and worked in that department for approximately 20 years, under highly qualified supervisors who were nationally known throughout the United States. Those supervisors stated that she was one of the most qualified and competent people that had ever worked for them, and of course, the work was analyzing blood samples, fibers, clothing and testifying to it in various cases in court.

She was used by police departments in many parts of the country. In fact, she was honored by various societies for her expertise. In my opinion, by virtue of her work on the job,

1 she in fact did become an expert.

2 9) However, during the course of testifying in many trials
3 as an expert, she would be asked in some of those cases, when
4 it came to qualifying her as an expert, about her educational
5 background. When she was asked that question, she would repeat
6 the lie she had initially given in filling out the form for
7 the police department, saying she was a graduate of wherever
8 it was she said she graduated from in answer to that question.

9 Sometime in the early 1970s, when she was testifying as
10 an expert in a murder trial in Philadelphia, it was not a
11 case that I was trying, one of the assistants in the office
12 was trying the case, the case of Paul Delahante, the defense
13 counsel in that case learned that this lady had been lying
14 about her educational background. So they asked her, in the
15 trial of that case, isn't it true that you are lying or have
16 lied about your educational background, and she said yes,
17 she had, but she had lied initially to get the job, and had
18 been caught up in that ever since.

19 The defendant in that case was acquitted, and she then
20 resigned from the police department of Philadelphia, and I
21 dare say if you ever should locate her today, you will find
22 that she is probably an expert working in some private lab,
23 being highly expert in the work that she is doing.

24 In any event, after she resigned from the police
25 department, a number of defendants in cases where she had

1 testified, then brought petitions for writs of habeas
2 corpus to upset their convictions on the grounds that she had
3 lied at their trial, and that she in fact was not an expert
4 witness.

5 ¶ So I had the problem of what position does the District
6 Attorney's office take in response to these petitions for
7 the various court hearings. I took the position, along with
8 the District Attorney, that we had to evaluate each case
9 on a case-by-case basis. We had to know what was the extent
10 of her testimony in relationship to the entire testimony in
11 that trial; i.e., were there three eye witnesses, was there
12 a confession in the case, was she testifying to something that
13 wasn't really in dispute.

14 If that were so, we were taking the position that no, we
15 would not walk into court and concede that the case should be
16 reversed, that we would argue that her testimony was not that
17 substantial.

18 We also wanted to review each case to find out had she
19 been asked in that particular case about her educational
20 background, because in many cases they stipulate to an
21 expert's qualifications without asking, and so in those cases,
22 even though she wasn't asked, we took the position that even
23 if she was not asked, but her testimony was of substance
24 in the trial of that case, we would then submit what had been
25 her opinion in that evidence to an independent tribunal of

1 experts. If they thought that her opinion was wrong, we
2 would agree to a new trial. If they concurred in what her
3 expert opinion had been, we would go into court then and
4 still try to sustain the conviction.

5 That is the position we took, and that was the position
6 that was upheld by the courts on the cases that arose out of
7 that.

8 That is the whole case of Agnes Malatratt. But that was
9 put in here in the context as though there is something that
10 has been done that was wrong.

11 The Chairman. Can you at this point make reference to
12 what was said that you did wrong? What did they say you did?

13 Mr. Sprague. It just has it in here.

14 The Chairman. It has it in there, but it doesn't say what
15 you did wrong?

16 Mr. Sprague. Well, there is the implication ¹/₇₉ I will
17 read what he has got here.

18 Among the things putting in, I am often the target of
19 criticism, and he puts in here; on February 24, 1967, Paul
20 Delahante was found not guilty of homicide in a Philadelphia
21 courtroom. The principal reason for the decision, a police
22 department evidence expert, named Agnes Belle Malatratt, who had
23 repeatedly testified as a professional witness for the Phila-
24 delphia District Attorney's office, had been discovered to have
25 lied about her qualifications and training. Both Mr. Sprague

1 and Arlen Specter, then the Philadelphia District Attorney,
2 unsuccessfully argued that the misstatements from Mrs. Malatratt
3 were of no importance because she was in fact an expert witness.

4 *Q* That's what is in there.

5 Mr. Devine. How many years before you associated yourself
6 with Mr. Specter's office had she been hired?

7 Mr. Sprague. Well, she was there for years before that.
8 She was there before I was in the ^{district attorney's} ~~D.A.'s~~ office, and not an
9 employee of the ~~District~~ Attorney's office. She was an
10 employee of the Philadelphia Police Department.

11 Mr. Devine. But the misstatement had been made ^{for} many years.

12 Mr. Sprague. She had been making the misstatements over
13 many years, which included years while Specter was ~~District~~
14 ~~Attorney~~, as well, and by the way, once this occurred, one of
15 the things I did do was set into motion a policy that any
16 expert that the police department thereafter employed, or who
17 already was employed, who was going to testify or be used to
18 examine any evidence that would be used in court, had to
19 submit the resume to us, the ~~District~~ Attorney's office, for
20 us to then check their educational, what they were saying was
21 in fact so.

22 But that is the whole situation of Malatratt.

23 **The Chairman.** A couple of questions, Dick.

24 While you think it is not important, I think it would be
25 important in this case. When you cite 17 years of experience,

1 in which they pulled five matters out, I think it is important
2 to have some recital with reference to the number of cases
3 that you participated in over a 17 year period. If you can
4 enumerate in terms of homicides, B&Es, you know, the litany,
5 I think that is extremely important in terms of our answering
6 this, to point up a comparative number as compared to five
7 cases here, particularly in light of this criticism which
8 didn't even affect cases you were specifically involved in.

9 Then let me ask you this: with reference to the number
10 of cases in which they brought writs thereafter as a result of
11 this, how many were involved, do you recall?

12 Mr. Sprague. I think there were approximately six or
13 seven cases.

14 The Chairman. Is there any way for us to get any dispositive
15 of those as to what did happen?

16 Mr. Sprague. I can try to see whether they can be obtained.

17 Mr. Fithian. Would the gentleman yield?

18 The Chairman. Sure, I yield to you.

19 Mr. Fithian. I would add that it might not be an exercise
20 in futility, in fact, to include in the record at the end of
21 this proceeding today, those citations for excellence, the
22 awards and so on. I think it would do a lot along the lines
23 that the chairman is speaking of.

24 Mr. Sprague. Fine.

25 Mr. Fithian. Then I don't think it would be untoward.

1 Mr. Devine. Pursuant to our request, not that you are
2 volunteering.

3 Mr. Sprague. Well, I really do not go around listing
4 awards in a résumé or anything.

5 Let me get to another case that is perhaps the one
6 given principal attention, the case of Applegate, and this
7 case occurred back in 1963. At that time I was chief of
8 homicide in the District Attorney's office, and would be
9 notified by the police department whenever a homicide occurred
10 in the city of Philadelphia for purposes of determining whether
11 a representative from the District Attorney's office should
12 be sent to the scene of the crime, or whether police should
13 keep us advised as to what is going on.

14 Back then, in 1963, I received a telephone call one day
15 from a state police captain named Rocco Urella. I had first
16 met this officer, Mr. Urella, in approximately 1960 when we
17 had a prison break in the Eastern State Penitentiary, and
18 approximately 28 convicts took hostages and attempted an
19 escape. Urella was one of those with the state police that
20 went in. I went in with them and in quelling that disturbance,
21 he was made responsible to the state police for working with
22 me in the prosecution of the approximately 27 or 28 people that
23 took part in that attempted escape.

24 Those cases took approximately a year and a half or so
25 through the courts, and I became a friend of that state police

1 captain. He was not a captain at that time. He had been,
 2 I don't remember, a sergeant or a lieutenant initially. We
 3 worked well together, and I had a high regard for him, and
 4 I would say that we may have gone out to dinner on one or two
 5 occasions during that interim of time.

6 *T* Subsequently, after this 1963 occurrence that I am about
 7 to relate to you, we became in the course of years much
 8 better friends, became ultimately what I would consider very
 9 good and close friends. He went on to become the State
 10 Police Commissioner of Pennsylvania, was dismissed by the
 11 present Governor in a wiretap argument that occurred, but I
 12 have continued to be a good friend of Mr. Urella.

13 In any event, back in 1963 I got a call from Mr. Urella
 14 one day stating that his son, whom I will call Urella, Jr.,
 15 had a friend named Scalizzi, Donald Scalizzi. He come to him,
 16 Urella, Sr., and had reported a matter, and he was advising
 17 me what it is that they had told him. And what he said to me
 18 was that they had just seen in the newspaper ¹/_M this was a
 19 Monday or a Tuesday, that a person was found dead at a certain
 20 house, and that they believed that the person that was found
 21 dead was a person that they had had an involvement with over
 22 that weekend.

23 What he told me was that his son, Urella, Jr. and Scalizzi,
 24 were college students at the time, going to LaSalle College
 25 in Philadelphia, that they had gone out on the weekend and had

1 been in some bar. While in the bar they said that they had met
2 this person who was subsequently known to be Applegate, that
3 they had gotten into a conversation with Applegate, and Applegat
4 had told them ~~A~~ invited them up to his apartment stating
5 that he was going to have a party and he would have some booze
6 and some women up there.

7 ~~A~~ So these two college students went up to Applegate's
8 apartment. Up there they said was Applegate and Applegate's
9 roommate, some other male who was drunk and was asleep. While
10 in the apartment they stated ~~A~~ this is what Urella, Sr. is
11 telling me that these two boys told him, that was reported to
12 me. They told him that Applegate had unzipped his pants and
13 exposed himself and made a homosexual advance on Scalizzi,
14 and Scalizzi had thrown one punch at the jaw of Applegate,
15 which knocked him down, and the two boys ran out of the room,
16 had gone on back to the campus. They did not think anything
17 else of it, or of anything that had occurred until they read
18 in the paper that a person at this location was found dead,
19 and they thought that is the person that they had had this
20 involvement with, and they were going to Urella, Jr.'s father,
21 the State ~~P~~olice ~~C~~aptain, to report it to him.

22 I might say when I say he was a State ~~P~~olice ~~C~~aptain, he
23 was not assigned in the Philadelphia area, he was assigned
24 in the Reading area of Pennsylvania.

25 Urella, Sr. advised me of this information and asked me

1 what ought he now to do? I told him he ought to take the two
2 boys to the police homicide department in Philadelphia, that
3 I would advise the police homicide department that they were
4 coming down there, and I would relate to them what Urella, Sr.
5 told me, and that he ought to take the boys down there and
6 let the police investigate the matter.

7 ⁹ He said he would do it, and I immediately called the
8 Philadelphia Police Department and told them what I just have
9 said to you, and asked them to report back to me the results
10 of their investigation.

11 The police subsequently advised me that the two boys
12 were brought down to them, and that they interviewed the two
13 boys separately and that they repeated really what I have just
14 said to you, and they took signed statements from the two
15 boys. The police wanted to know what I suggested ought to
16 be done in addition. They also interviewed the roommate who
17 had been there, who was the one who found the body, and they
18 told me that the roommate said that he had been drunk, he
19 can't identify anyone. He remembers the two boys being in
20 there, he remembers two fellows being in there, and somebody,
21 he says, threw a punch at him, and somebody was struggling
22 with Applegate, but he doesn't remember anything beyond that.

23 He described the one that he said threw the punch at him
24 as having a certain color hair, I do not recall. The police
25 also advised me that they found at the scene evidence that would

1 tend to corroborate what the boys had been saying because
2 they found that Applegate's trousers, his fly was in fact
3 unzipped. The medical examiner stated, I was advised, that
4 the cause of death, flukily, was caused either by $\frac{1}{M}$ was
5 consistent with just one punch having hit him, or in the fall
6 backwards $\frac{1}{M}$ the medical examiner couldn't determine which had
7 done it $\frac{1}{M}$ but what he found was consistent with just one
8 punch having been thrown.

9 // I had one problem in my mind, however, when this was
10 reported to me, and it may just be my experiences as a
11 prosecutor. I was concerned whether or not Scalizzi was
12 saying that it was he, Scalizzi that threw the punch to
13 protect a State Police Captain's son, and I told the police
14 department that was a concern of mine, and that I would like
15 further investigation to see whether or not Scalizzi is
16 taking the rap for Urella, Jr.

17 The police continued their investigation and reported
18 to me that going back to the college campus at LaSalle, they
19 came upon a student, a student or students $\frac{1}{M}$ I don't remember
20 which $\frac{1}{M}$ who had seen Scalizzi after Scalizzi had run out
21 of Applegate's apartment but before anything had ever been
22 reported in the paper, and Scalizzi at that time, before anything
23 was known about anyone having died or anyone having reported
24 or anything in the paper, was telling his college student
25 friends about the experience that he and Urella had had,

1 Urella, Jr., and he related then the same story. He
2 related about the homosexual advance on himself and how he,
3 Scalizzi had thrown the punch, and the two boys left, and in
4 the opinion of the police department, that was pretty strong
5 evidence that Scalizzi was not taking the rap for Urella, Jr.
6 because there was no need to have been saying that at that
7 time.

8 7 But I asked the police department to have these two
9 boys requested to take a lie detector test as well, which the
10 police department did, and the results reported to me by the
11 police department was that in the opinion of the polygraph
12 expert, the boys relating the same story, that they were telling
13 the truth, that there was no deception, and that is what was
14 said, and that it was Scalizzi who threw the punch.

15 Based on that information, I recommended to the police
16 department that no charges should be brought against Urella,
17 Jr. He had not done anything. The only basis of a charge
18 against him would be if there was a conspiracy to do something,
19 in which case, then, each participant is responsible for the
20 acts of the others, but there is no conspiracy of anything
21 involved here.

22 I also told the police department that in my view, one
23 punch thrown under those circumstances was justifiable, and I
24 did not think that a charge ought to be lodged against
25 Scalizzi. The police department concurred with my recommendation

1 about Urella, Jr. There was never any issue in that, and they
 2 agreed completely. They, however, disagreed with my position
 3 and my recommendation on Scalizzi. They thought, well, since
 4 he threw a punch and the guy died, there ought to be a charge
 5 brought anyway, and they have a right to do that, and they
 6 then brought the charge against Scalizzi of causing the death
 7 of Applegate.

8 // By the way, I should also point out that the police
 9 department, in checking Applegate's record, found that he did
 10 have a record as a homosexual, and prior arrests and convictions

11 So anyway, as a result of that, the police department
 12 arrested Scalizzi, and there was then what we call a preliminary
 13 hearing before a magistrate. All of the evidence which I have
 14 just related to you was summarized publicly at that hearing,
 15 the news media was there ¹/₇₇ there is nothing that I am saying
 16 to you that is new. It was presented there fully. It was
 17 stated, I stated there in open court my opinion legally that
 18 the one punch under those circumstances was justifiable as to
 19 Scalizzi, and I did not think the case should go to court.

20 The magistrate concurred in my recommendation and he
 21 discharged Scalizzi. That is the end. That is the Applegate
 22 case in its entirety, and that was it in 1963.

23 However ²/₇₇

24 Mr. Fithian. May I interrupt you, Mr. Sprague?

25 In that you knew Urella, Sr., if you had this all to do

1 over again, and this man who was a friend of yours had a son
2 who was potentially involved, would you excuse yourself and
3 have someone else in the ~~D.A.'s~~ ^{district attorney's} office attend to the matter?

4 ¶ [Whereupon, Mr. Preyer entered the hearing room.]

5 Mr. Sprague. In no way. There is a tremendous difference
6 between the investigation at the beginning to find out who
7 was involved from the question of who handles the prosecution
8 if somebody is then involved. For example, I will use any
9 of you. If I was the Chief of Police in Washington, D.C., and
10 let's say I knew Mr. Devine, and I get word that there is a
11 robbery at a tap room, and someone is suggesting Mr. Devine's
12 son is a suspect in that thing, I don't then say whoops, I
13 know Mr. Devine. I am not going to take part in the investi-
14 gation because maybe he is or maybe he isn't involved. What
15 you do is you go ahead with the investigation.

16 Now, if in fact the investigation showed that he was
17 involved and that there was evidence to then bring a
18 prosecution, if my relationship was such that I thought no, I
19 ought not to handle the case, yes, that is a different matter.
20 But you do not separate yourself from a case because at the
21 threshold when you are trying to find out who is involved it
22 may be somebody you know.

23 Let me say, addressing myself to that point, because it is
24 very interesting, the attacks that occurred here, again in
25 terms of my record. I have, in fact, prosecuted judges; I

1 have in fact prosecuted police officers; I have in fact
2 prosecuted newsmen; I have in fact prosecuted ~~sons~~ of police
3 officials, who were in each instance friends of mine; have
4 convicted them, have sent them to prison. There has not been
5 one iota of a suggestion in any instance that I in some way
6 was doing anybody a favor or that I was in any way not fully
7 prosecuting those cases.

8 ¶ That is the Applegate case, as I say, and that is in
9 1963 at a public hearing, and it ends. And I must say that
10 this young boy, Urella, Jr. since went on to become a doctor;
11 Scalizzi since went on to become a dentist. However, this
12 Committee must keep in mind what subsequently developed that
13 then makes these cases some sort of issue, and I now must
14 switch to approximately 1972 or 1973, the precise year I am
15 not positive of.

16 And before I get to that, I must also say with regard
17 to a newspaper in Philadelphia called the Philadelphia
18 Inquirer, they had one of their star newspapermen, a man
19 who received awards throughout the state, ~~he~~ ^{he was} ~~awarded~~ ^{honored} by the
20 Governor of the State as one of the great newspapermen in our
21 state, a man named Harry Kerafin. We in the District Attorney's
22 office had received word that he was using the columns of
23 that paper for blackmail purposes, going to businessmen, going
24 to a bank, a prominent bank in Philadelphia, telling them
25 that he had derogatory information concerning those businesses

1 or that bank that he was going to publish in his column in
2 the Inquirer unless they put him on their payroll as a public
3 relations man, and he would see to it that there was no adverse
4 publicity about them. And as a matter of fact, this prominent
5 bank had him on the payroll at \$1000 a month; New York City's
6 Broadway Maintenance had him on the payroll, I forget at how
7 many thousands of dollars; and businesses did, and we uncovered
8 that evidence and we prosecuted $\frac{1}{M}$ I prosecuted Mr. Kerafin.
9 I sent him to prison, where he died.

10 *II* I may say that that man had been a friend of mine before
11 this evidence was uncovered. Not a soul ever suggested that
12 because I had been friendly with him I ought not to be investi-
13 gating that case or prosecuting it. They did everything to
14 get me off the investigation and the prosecution of that case,
15 but didn't succeed. But that is a little background in terms
16 of this newspaper, the Inquirer.

17 In 1972 or 1973, a reporter in Philadelphia named Greg
18 Walter, who at that time was working for the other main newspaper
19 in Philadelphia called the Evening Bulletin, was arrested by
20 the ~~District~~ Attorney on a charge of wiretapping, although $\frac{1}{M}$
21 but I must say so you don't get the wrong concept, in Pennsyl-
22 vania, it is illegal to tape record a telephone conversation
23 with another part without the consent of the other part to
24 the telephone call. If you just record your own conversation
25 with somebody else, that, under our law, is wiretapping.

1 This reporter was caught having engaged in that. I
2 may say as a background having nothing to do with me, the
3 District Attorney in Philadelphia, Mr. Specter, was in a very
4 big dispute publicly with the Governor of the State, the
5 Attorney General and the State Crime Commission in terms of
6 allegations of police corruption in Philadelphia, which in
7 part arose because Mr. Specter was thought to be the next
8 Republican candidate for Governor against the then Governor
9 of Pennsylvania, who was and is a Democrat, Mr. Schapp. So
10 this battle had been occurring between the District Attorney
11 and the Governor and the State Attorney General and the Crime
12 Commission, over allegations of police corruption in Phila-
13 delphia. But the main scenario was because of what was
14 believed to be an ensuing political contest.

15 In any event, Mr. Specter ordered the arrest of this
16 newspaperman, Greg Walter, on the basis of the police having
17 obtained evidence of this recording of telephone conversations
18 without the consent of the other parties.

19 Mr. Fithian. May I ask, was the reporter recording his
20 own conversation, or a conversation between himself and the
21 other parties?

22 Mr. Sprague. Between himself and the other parties,
23 without the knowledge and consent of the other parties.

24 Mr. Fithian. So he was taping their answers to his
25 questions and whatever.

1 9 Mr. Sprague. Yes, that is correct, and I may say that
2 that reporter had been a friend of mine prior to this arrest.
3 I had nothing to do with that arrest. This was strictly a
4 decision by Mr. Specter, and I must also say that when Mr.
5 Specter arrested that reporter, it literally hit the fan in
6 terms of the attitude by the Philadelphia news media against
7 Mr. Specter.

8 Mr. Edgar is here, and I think he would even have a
9 recollection ^(all the news media) ~~from~~ radio, T.V. to the press, ~~to the news~~
10 ~~media~~ blasted Mr. Specter in just one
11 continuous roast for having arrested this newspaperman for
12 doing what they considered was a practice that was all right,
13 ~~thousands~~ numbers of them were doing it, and they also argued
14 that when you call the Philadelphia police department on an
15 emergency call, they are recording that conversation, so
16 why shouldn't the police be arrested, too. That was the kind
17 of argument $\frac{2}{14}$

18 Mr. Fithian. May I raise this question? I believe in
19 the Burnham article, the quotation is allegations of the
20 selective prosecution by Mr. Sprague of a newspaper reporter
21 for secretly recording his phone conversations while Sprague
22 took no action against similar practices of the city's own
23 police and fire departments.

24 Mr. Sprague. Well, there are two parts of that. First,
25 the decision to arrest was the District Attorney's, and it was

1 Mr. Specter and not Mr. Sprague. Secondly, the decision with
 2 regard to the arresting of Mr. Walter was not even made in
 3 consultation with me. Thirdly, the position and the argument
 4 by Mr. Specter that was raised with him was that a call to
 5 the police department and a call to the fire department is
 6 in effect with an implication that they are going to record it.
 7 The reason that the police department and the fire department
 8 record that is that when somebody is screaming into a phone
 9 "fire" and giving an address, what in the world happens when
 10 that party has hung up and the fire department is now saying,
 11 what was that. Was that on M Street or was that on N Street
 12 or what? They need that recording now.

13 *¶* Mr. Devine. Isn't it also public knowledge that police and
 14 fire calls are recorded?

15 Mr. Sprague. Well, we said that it was. However, as a
 16 result of this prosecution, what was put into effect was a
 17 little beeper with the police and the fire department which was
 18 on since *that time* to indicate further that it is being recorded. The
 19 attack was made by the defense that it was a selective
 20 prosecution.

21 As I said, the prosecution was not by me, it was by
 22 Mr. Specter.

23 Secondly, that argument which was made, Mr. Burnham doesn't
 24 point out, was argued in court. It was heard in court. A
 25 court made a determination it was not a selective prosecution,

1 which Mr. Burnham does not mention in his article. I mean, he
2 takes what an allegation is, not pointing out that that was
3 fully argued and a decision rendered on that in the court.

4 *H* In any event, continuing, ~~■~~ Mr. Specter had made this
5 arrest of Mr. Walter and was literally roasted by the news
6 media.

7 We have in Philadelphia what we call a two-tier trial
8 system. Minor cases are heard by a lower court judge where
9 a defendant does not have a right to a jury trial. He gets
10 his quid pro quo because in the event he is convicted and he
11 does not like the disposition or the fact that he was convicted,
12 he has a right to a new trial automatically, and a jury trial.

13 In terms of the charge against Mr. Walter here, it ^{was} ~~is~~ a
14 minor charge, and it ^{would} ~~would~~ be heard in this lesser trial level.

15 Mr. Specter came to me and asked me as a favor to him to try
16 the case. Now, I did not want to try it. I had seen the
17 roasting that he had gotten. Secondly, Mr. Walter, as I say
18 had been a friend of mine, and I tried to urge Mr. Specter
19 that I would prefer if he asked others in the office to try
20 the case. Mr. Specter however said no, he would like me to
21 try it, and as a favor to him would I do it. ^{So,} ~~and~~ in my
22 concept of my ~~loyalties~~ ^{loyalties} to him, and my position as his
23 first assistant, I agreed and I did try the case, ~~and which~~ I
24 have no regrets. I did what I thought I should do. I tried
25 that case and I convicted Mr. Walter.

1 After the conviction of Mr. Walter, he said he want^{ed} a
2 new trial ¹/_M which he is entitled to automatically ¹/_M to now have
3 a jury trial.

4 I might say that the defense tried to get me out of
5 being the prosecutor in that case, ~~and wanted to, and indicated~~
6 ~~and said that~~ **T**hey wanted to disqualify me from being the
7 prosecutor on the new trial.

8 During this interim ~~period~~ from the conviction to the
9 time of the new trial, Mr. Walter was ~~then~~ hired by the
10 Philadelphia Inquirer, to which I have already made reference.
11 I received word that Mr. Walter was going around after that
12 conviction stating that he is going to destroy me.

13 The next thing I heard ^{about this was while} ~~was that he had just been~~ ¹/_H
14 ~~this is in 1970 or so, this Applegate case back in 1963, and I~~
15 was trying one of the Yablonski murder cases in Erie, ~~Pennsylvania~~
16 in 1973, ~~and~~ I got a telegram from Mr. Walter and another
17 reporter working with him demanding that within three days,
18 ~~for them, that~~ I answer ^{a whole lot} ~~all~~ of ~~these~~ questions as to how come
19 I blew out the Applegate case back in 1963, as a favor for Urella,
20 Sr. and covered up the case against Urella, Jr. I contacted
21 the Inquirer and reminded them ~~of the fact~~ that a previous
22 newsman for the Inquirer, named Kerafin, had been using the
23 columns for his own purposes, and suggesting to them that that
24 same thing is happening now, that Walter is trying to smear
25 me in their paper, that he wants to disqualify me from being

1 his prosecutor in his upcoming trial.

2 ¶ The attitude of the Inquirer was, I am not telling them
3 who writes any story, and a story thereafter appeared headlined
4 that Sprague covered up the the Applegate case as a favor ofr
5 Urella, Sr. and bl^ew it out for Urella, Jr.

6 I wrote a lengthy document to the Inquirer, which they
7 did not in fact publish, and I sued them for libel. That libel
8 suit is still pending. They have tried on a number of occasions
9 to have that case thrown out on the grounds of the newspaper's
10 right to comment about public officials¹ even though what is
11 said is untrue¹ that they have a right, nonetheless, to publish
12 it. The courts have thrown out their motion to throw out the
13 case on the grounds that in this situation ¹ oh, I should have
14 said this article appeared under the by-line of this Greg
15 Walter and the other reporter, and the court has said that
16 in view of the fact that Mr. Walter was in fact prosecuted by
17 me, that it is one of the rare situations where a public
18 official has at least a showing, prima facie, of malice, which
19 is required as the burden by a public official.

20 The only thing I would say of note that occurs concerning
21 that is that the Inquirer has as its managing editor an
22 individual named Jean Roberts, who is also one of the defendants
23 in my libel action, along with Greg^o Walter and others, and
24 Jean Roberts having come to the Inquirer from the New York
25 Times.

1 9 That is the Applegate case.

2 There is one last thing I should mention on it, two things.
3 Even prior to the libel case, the libel suit, the file in
4 that case has been reviewed by the person who was the
5 district attorney, of the district attorney's office, back in
6 1963, when I was chief of homicide. Keep in mind, I was not
7 the district attorney. The file has been reviewed by the
8 district attorney then who is now a judge in the Commonwealth
9 Court of Pennsylvania, who has stated in a letter publicly
10 that he concurs totally with the decision and the conduct in
11 that matter. The file was reviewed by Mr. Specter who has
12 stated that for purposes of my libel suit, that file has been
13 submitted to a number of other district attorneys throughout
14 Pennsylvania, all of whom have concurred in my decision and
15 conduct in the case.

16 The Chairman. I have several questions.

17 First, after your recommendations to the police that
18 Scalizzi not be prosecuted, and they disagreed with you, then
19 you say they went to a magistrate's court. Now, I assume your
20 procedure there is to go to the municipal prosecutor and get
21 a complaint?

22 Mr. Sprague. No.

23 The Chairman. What is the procedure?

24 Mr. Sprague. When the police want to $\frac{1}{M}$ they hear what
25 our opinion is. We are the prosecutors but they are not bound

1 by it as you can see in this particular case, and they have
 2 a right to go to a magistrate or a municipal court judge on
 3 their own and get their own complaint, which is what they did.

4 The Chairman. And then the matter came before a magistrate,
 5 right?

6 Mr. Sprague. Yes; it did.

7 The Chairman. And then it was disposed of before that
 8 magistrate in that he found, I suppose, no probable cause
 9 and dismissed the complaint.

10 Mr. Sprague. That's right.

11 The Chairman. Okay.

12 Now, that bears, then, on these questions here, where
 13 ~~which~~ according to the article, they make reference ~~to~~
 14 ~~to~~ various matters, ^{which} were not properly pursued in 1963,
 15 immediately after the death of Applegate. ^{investigation} The 1973 ^{investigation} concluded,
 16 citing unresolved conflicts in the testimony of the key
 17 participants, additional witnesses who were not interviewed,
 18 ^{and an} ~~an~~ incomplete fingerprint search at the death scene, and
 19 faulty lie detector and blood tests.

20 I think those specific items need to be commented on.

21 Mr. Devine. It sounds like the King-Kennedy investigation.

22 Mr. Sprague. Mr. Chairman, what happened there, in the
 23 course of these attacks and this attack by the Inquirer that
 24 was demanding that I be dismissed from the District Attorney's
 25 office, they went into a regular campaign after I sued them

1 for libel, and Mr. Specter submitted the file in the case
2 to the ~~Attorney~~ General of Pennsylvania, I must say, the same
3 person with whom he had been feuding, concerning the other
4 matters with the Crime Commission. The ~~Attorney~~ General of
5 Pennsylvania then assigned two detectives to investigate the
6 case. They came up with a report which was the basis, then, of
7 a letter by the ~~Attorney~~ General in which he said that with
8 regard to what the evidence was in the case, the lack of
9 evidence against Urella, Jr. and so forth made it $\frac{1}{M}$ what was
10 done was the only way it could be ~~handled~~ handled.

11 *¶* However, his investigator stated, and he put in his
12 letter that there was not a thorough fingerprinting job done
13 at the scene of the crime, that there should have been further
14 examination of the scene to determine blood types and things on
15 blood stains, and that there should have been further interro-
16 gation of some witnesses. ^{This} ~~was~~ he said in his letter $\frac{1}{M}$ but
17 he ^{was} ~~was~~ not addressing himself to whether or not there ^{was} ~~was~~ a conflict
18 of interest by me in even investigating it in view of my
19 friendship with Urella, Sr.

20 My response to that is it is easy for him to say the
21 fingerprinting $\frac{1}{M}$ there is an implication I guess in that that
22 I was responsible for the fingerprinting at the scene of the
23 murder. I bring back to your attention that the body was
24 found on some day before it was ever even reported in the
25 paper. Nobody from the ~~District~~ Attorney's office went to the

1 scene of this crime. There was no coverup, no one even
2 knew about Urella at that point. The police did their normal
3 job at the scene. It is not up to me to be at the scene telling
4 the police fingerprint here, fingerprint there.

5 ¶ Now, it is very easy for the ~~Attorney~~ General and now
6 Mr. Burnham to say, ah ha, they didn't go all over this place
7 for fingerprints. Maybe they did, maybe they didn't. I don't
8 know about that. But that again, you have got to look at that
9 ~~Attorney~~ General's letter in terms of the conflict going on
10 between the Governor and Mr. Specter and taking advantage of
11 this kind of fight.

12 But as to the fingerprinting, I would even throw out
13 further, what is fingerprinting here going to show, that these
14 two boys were in the place? We know they were in the place.
15 They have said so. And let me tell you this, as an experienced
16 prosecutor, having investigated literally hundreds and hundreds
17 of cases, you don't in general find fingerprints at the scene
18 that are telling you anything. So what do you find, a fingerprint
19 that shows you are there, if somebody admits he is there.

20 With regard to the question of blood stains, it sounds
21 nice, but this again has to do with the police work at the
22 scene of the crime having nothing to do with what occurs
23 thereafter for which, you know, I wasn't at the scene and had
24 no responsibility for the work initially at the scene. But
25 even beyond that, had I had that responsibility, what is that

1 going to tell in terms of the story? They find some $\frac{1}{M}$ I
2 dare say I could probably walk into most of the kinds of homes
3 where this thing occurred, and if I really did a thorough check
4 on the floors of the place, I would get some readings of some
5 blood around here and a splattering there, but that doesn't
6 tell me anything.

7 *A* So again it may sound nice, but it doesn't develop
8 anything.

9 And the last thing, when they talk about some conflicts
10 in the testimony of witnesses, what they are talking about
11 there and what the Inquirer tried to make a big deal of, this
12 roommate of Applegate's who was drunk, who frankly there was
13 some suspicion as to whether he did something to Applegate
14 in a homosexual jealousy attack, indicated subsequently that
15 maybe the boy that was hitting him was the dark haired boy,
16 which would then be Scalizzi, trying to imply that it maybe
17 was Urella that hit Applegate.

18 However, it was the police who were in contact with that
19 witness right there at the scene who totally disregarded
20 him for being drunk, and when he was interviewed, he did not
21 know, so that that is what they are talking about in that
22 context.

23 The Chairman. So there were no additional witnesses
24 that appeared at the magistrate's hearing.

25 Mr. Sprague. ~~None~~ None.

1 The Chairman. Has there ever been any conflict with
2 reference to the cause of death theory, that is, the informa-
3 tion presented to you that one blow was struck? At the magis-
4 trates hearing, was there any additional evidence that anything
5 else was done other than one blow struck?

6 Mr. Sprague. No. What was presented to the magistrate,
7 ~~and it~~ was presented in summary form, literally as I gave it
8 to you, by the detective who was responsible for the case. He
9 was told by me ^{to} tell the magistrate the case, And he related
10 that, and that is the finding by the medical examiner
11 consistent with the one blow.

12 Mr. Dodd. Mr. Chairman?

13 The Chairman. Yes, Mr. Dodd.

14 Mr. Dodd. I am sorry, Dick, I may have missed it.

15 What was the final disposition on the reporter Walter
16 case after the non-jury trial?

17 Mr. Sprague. You did not miss it, Mr. Dodd. I failed to
18 say it, I guess, because it is a sore point with me. After
19 I brought my suit for libel, I must say this. Mr. Specter
20 did not want me to disqualify myself from the forthcoming
21 prosecution of Mr. Walter. However, I felt very strongly that
22 now having a libel suit against that individual, it would be
23 wrong for me to then be the prosecutor in the case here, and
24 here notwithstanding Mr. Specter's position, I insisted that,
25 and in fact, over his objection. I walked into court and I

1 withdrew from the prosecution of that case.

2 // Thereafter Mr. Specter dropped the subsequent trial against
3 Mr. Walter and that was the end of it.

4 Mr. Dodd. What is the connection between Mr. Burnham
5 and Mr. Walter?

6 Mr. Sprague. I don't know of any connection except that
7 it is pretty clear to me that Mr. Burnham, who is from the
8 New York Times ¹M and I don't know if you were here when I
9 mentioned it ¹M the managing editor of the Inquirer is formerly
10 from the New York Times, and Mr. Burnham was given by the
11 Inquirer all of their files and information, and as a matter
12 of fact, on that same point I couldn't help but note in the
13 Congressional Record that Mr. Wirth stated that it was Creed
14 Black from the Inquirer who furnished him with all of the
15 editorials from the Inquirer. Mr. Creed Black happens to
16 be one of the defendants in my libel suit as well.

17 The Chairman. Are you finished?

18 Mr. Fithian?

19 Mr. Fithian. I have no more questions on this particular
20 case. I have one other question. I am a little reluctant to
21 get into it because of the lateness of the hour, Mr. Chairman,
22 but maybe this could be compressed into a very short response.

23 Quoting again from the article which Mr. Wirth put in the
24 Congressional Record, it says in another case involving the
25 husband of Sprague's girlfriend, the Pennsylvania Supreme

1 Court said the proceedings lacked due process, and the husband's
2 later arrest was, and this is a quotation, "gross injustice."

3 *¶* Now, I might tell the rest of the members of the Committee
4 that Mr. Sprague was good enough to come over to my office,
5 and I went over all of the summary of the various charges of
6 statements that were in the Burnham article. I would like for
7 you to do whatever you need to do to summarize, to set the
8 stage, but specifically with reference to the Pennsylvania
9 Supreme Court saying that the husband's arrest was gross
10 injustice, that is my particular question here.

11 Mr. Sprague. Fine.

12 Setting the stage here again, the attack is ^{what} ~~that~~ the
13 Pennsylvania Supreme Court said that about me, and I guess
14 the implication here is that I as a district attorney did
15 something that was violative of a particular person's rights.
16 And the first thing let me say is that what occurred in this
17 instance in no way involved me as a district attorney or as an
18 assistant district attorney. This was a private matter. With
19 regard to the private aspects, there was a husband and wife,
20 both of whom had been good friends of mine.

21 Mr. Dodd. You have ~~some~~ more good friends.

22 Mr. Sprague. Who, as occurs, had domestic difficulties.
23 In the course of their domestic difficulties, as I saw it,
24 frankly my sympathies were on the wife's side. She subsequently
25 left her husband, obtained custody of their three children.

1 She divorced her husband, she divorcing the husband. She and
 2 I have continued to be good friends, and I have dated her since
 3 a number of years, and still do.

4 *A* Referring to back then, at the time of her separation from
 5 her husband, her husband commenced a campaign to destroy her
 6 relationship with her three children. Without going into all
 7 of the things that were involved in that campaign, he refused
 8 to turn over to her the clothing, the necessities that her
 9 three children ^{requires} ~~needed~~ that were in their common house. She
 10 had moved elsewhere with her children and was given custody
 11 by the courts of her children.

12 The courts directed ~~that the husband~~
 13 ~~transfer~~ ~~to her~~ ~~the~~ ~~clothing~~ ~~and~~ ~~toys~~ ~~and~~ ~~other~~ ~~belongings~~ ~~and~~ ~~she~~ ~~agreed~~ that the clothing,
 14 the toys, whatever the belongings are of the three children,
 15 should be turned over to the wife.

16 In the course of the legal difficulties that existed
 17 between that husband and the wife, the court on numerous
 18 times issued orders on the husband to turn over the children's
 19 belongings. ~~However~~ *A* At one point there was even an
 20 agreement, ^{in their} ~~that she would sign over~~
 21 house ^{being} ~~was~~ in a joint name ^{that} *M*, she would sign over her interest
 22 in the house to the husband, even though it had been bought
 23 with her money, her father's money. The husband would then
 24 turn over at least the children's belongings. She turned
 25 over her title to the house and contents, and he still didn't

1 turn it over.

2 ^{reached}
 3 It ultimately ~~achieved~~ the point where the lawyers on
 4 both sides went ^{before} ~~into~~ a judge in Philadelphia who had jurisdiction
 5 over this case ^{and} had him issue an order that on a certain date
 6 and time the husband was to turn over these belongings to the
 7 wife ^{this} had nothing to do with her belongings, just the children's
 8 The attorneys agreed that if the husband did not do it on
 9 ~~that~~ ^{the} date, he was notified to do it, that the judge would have
 10 him picked up for contempt of court, incarcerated, and then
 11 bring him down for a hearing for further punishment for having
 12 done that.

13 So whatever the date was, they set this in motion. The
 14 wife went to the location to pick up the belongings of the
 15 children. The husband again did not turn them over. She,
 16 pursuant to their arrangement ^{1/4} and because of my friendship
 17 with her, I was kept advised as to what was going on ^{1/4} she
 18 contacted her lawyer, who contacted the husband's lawyers. They
 19 agreed that this information should now be brought to the
 20 attention of the judge who sits in City Hall, whose courtroom
 21 is next to my offices.

22 They asked would I convey the information to the court
 23 as to what happened.

24 Mr. Dodd. Who is ^{1/2} they? ^{1/2}

25 Mr. Sprague. The lawyers for both sides. When I say
 they, it was her lawyer, and when he called me, I said, well,

1 I am going to call the lawyers for the husband because I
2 am not walking in unless it is they, being both sides.

3 ¶ The lawyers for both sides requested me to go into court
4 and to convey to the judge that despite their agreement and his
5 order, this had not been done, and that they were in accord
6 that a petition for holding the husband in contempt of court,
7 committing him, should be taken to the judge for immediate
8 execution, and that the lawyer for the wife would see that it
9 is prepared, but that the wife should come down to my office
10 where she would then have it notarized because the thought was
11 she may have to appear before the judge to swear to it.?

12 So, they asked would I take the petition and recite to
13 the judge what occurred and have her have it notarized in my
14 office, and that was done, and I went in and told the judge
15 what had occurred, presented that petition, and based on that,
16 he issued an order for picking up the husband and committing
17 him for contempt of court to be brought down, I think, the
18 next day or so for a hearing in front of him.

19 That matter went up to the Supreme Court of Pennsylvania
20 and they say that the husband, father $\frac{1}{M}$ and I may say the
21 husband-father was a very prominent attorney in Philadelphia $\frac{1}{M}$
22 it went up to the Supreme Court. The husband did not stay in
23 jail. He was released, I think immediately, within $\frac{2}{2}$ or
24 $\frac{3}{3}$ hours, pending this appeal to the Supreme Court. By
25 the time it was heard by the Supreme Court, a judge had held

1 this husband $\frac{1}{H}$ this husband, by the way, has been held in
2 contempt of court on so many instances by various judges I
3 couldn't begin to count them for you. He has spent weeks in
4 prison for failure to comply with court orders, with regard
5 to continuing difficulties between this former couple over
6 their children.

7 // By the time this matter got to the Supreme Court, the
8 contempt here had been dismissed as not needed because they
9 had other actions against the husband.

10 So in this particular proceeding, the ruling by the
11 Supreme Court said it was moot, there was no longer any
12 contempt matter, but they put in their opinion that while it
13 was laudatory, the purpose of getting the children's belongings,
14 it was improper to have had this husband picked up and
15 committed, that the proper procedure would have been for him
16 to have been notified of a hearing in front of the judge
17 on what are called a petition and rule to show cause why he
18 should not be committed to jail. In the Supreme Court's narra-
19 tion of facts, they mentioned that an attorney named Richard
20 A. Sprague went into the courtroom and conveyed the information
21 as to what happened. Then they say at the end of that
22 paragraph: "This order directing the husband to be arrested
23 was" whatever the language is that was read there, improper
24 and unjust and so forth.

25 That is that case.

1 The Chairman. Mr. Edgar?

2 Mr. Edgar. Mr. Chairman, Mr. Sprague, ~~I would be remiss~~
3 ~~in not talking for just a moment about the case in Delaware~~
4 ~~county, and I appreciate the fact that you came to my office and~~
5 ~~we talked about this privately.~~

6 I would be ~~remiss~~ in not talking for must a moment about
7 the case in Delaware County, and I appreciate the fact that you
8 came to my office and we talked about this privately. I men-
9 tioned to a couple of persons on the Committee an inadvertent
10 headline that appeared in last week's "Bulletin", ~~which~~ ^I I
11 subsequently have said to you that it bothered me greatly ^I
12 where the headline indicated some criticism of you for your
13 work in the 1974 investigation into Delaware County corruption.

14 There are a couple of questions that I have about that
15 case, and I wonder if you might just summarize quickly your
16 being requested to come into Delaware County, under what
17 circumstances, and maybe a couple of the lessons you may have
18 learned from that.

19 Mr. Sprague. Glad to.

20 Again I am not sure of the year. It was either 1972 or
21 1973 ²/₇₇

22 Mr. Edgar. It was 1971 that the raid took place on
23 the Republican Party Headquarters in Media.

24 Mr. Sprague. All right. In 1971, it was then the State
25 Crime Commission came out with public accusations about

1 corruption by the Republican organization in Delaware County,
 2 ~~Pennsylvania~~, indicating that they, the State Crime Commission,
 3 had uncovered and had provable cases of corruption by the
 4 Republican organization in that county, and that the
 5 ~~District~~ Attorney, who was the preacher of the Republican
 6 organization of that county, was not doing his job.

7 *U* They also indicated there was what was called macing
 8 by the Republican organization, which is the party in power is
 9 stating to people on the public payroll, cough up contributions
 10 at election time or you will lose your job.

11 As a result of those allegations, the ~~District~~ Attorney
 12 of Delaware County requested that I take the position of
 13 ~~Special~~ Prosecutor and look into these allegations. I was
 14 busy enough, ~~but I saw to identify the~~ but the ~~District~~
 15 of Attorney of Philadelphia, with whom the decision was left,
 16 Mr. Specter, thought that I should take the assignment, and I
 17 did.

18 My taking the assignment, in my mind, was predicated upon
 19 a number of thoughts really. A ~~District~~ Attorney in Pennsylvania
 20 does not have subpoena power on his own for an investigation.
 21 He can only do that through an investigative ~~Grand~~ Jury. And
 22 in Pennsylvania, you only get an investigating ~~Grand~~ Jury
 23 where you can show a pattern of provable cases of corruption
 24 and dereliction by local law enforcement agencies, but what
 25 I thought I could have here, the State Crime Commission does

1 have subpoena power, and it has agents. So what I thought
 2 upon taking the position of special prosecutor was to contact
 3 the State Crime Commission and say fine, you fellows have now
 4 blasted Delaware County. You say you have got cases. Turn
 5 them over to me and I will prosecute the cases after I look them
 6 over, assuming they are good cases, and furthermore, with
 7 your people doing the leg work, we are off, we will investigate
 8 Delaware County, we will haul people in under subpoena in
 9 front of your Commission, get them under oath and on we go,
 10 because they had immunity powers as well.

11 ¶ Right after I took the appointment, I wrote to the State
 12 Crime Commission in the vein of what I just said, and the
 13 response was $\frac{2}{M}$

14 [Pause]

15 Mr. Sprague. The response by the Crime Commission to me
 16 was no, Mr. Sprague, we are not going to turn over anything
 17 that we have. We are not going to turn over any of the cases,
 18 any of the evidence, we are not going to work with you, and
 19 you cannot have access to any of our information, and you cannot
 20 use our subpoena power, our people and so forth, and I in line
 21 with your question of what lesson have I learned out of that,
 22 which I guess is one of the reasons for part of my position
 23 today, I probably ought to at that point have told Delaware
 24 County I will not take the position of ~~special~~ ~~prosecutor~~
 25 because I had no budget, I had no staff, and what I learned out

1 of it is you had better not proceed on an investigation unless
2 you make sure you have got the proper funding and $\frac{2}{M}$

3 // Mr. Dodd. What year was that?

4 The Chairman. You made the same mistake twice.

5 Mr. Edgar. Well, let me ~~just~~ point out just for the
6 record that I think that was really the mistake in this par-
7 ticular case. The actual search and seizure warrant was
8 signed and the action was taken on October 26, 1971. The
9 report, which is infamously called the Sprague Report, was
10 issued in Dick's office on October 18th, 1974, and I was in
11 Dick's office the day that the report was released, and I
12 think the problem was that the appetite of the community had
13 been whetted, that for those years they had a special
14 prosecutor, and it was not in the mind of the community that
15 no funds were available. There were, as Dick describes, only
16 volunteer law students doing some of the work.

17 After that many years of investigation, the total number
18 of pages, I think, in the report is somewhere around 36, and
19 there was a great deal of frustration on the part of the
20 community, not knowing the facts, I think. The report, which
21 was looked upon as being an evaluation of the problems of
22 Delaware County, caused a great deal of concern, I think.

23 Mr. Sprague. Just to continue, I should have just said
24 out, but I didn't, and what I tried to do, since I had no
25 budget and I couldn't use anybody from Delaware County $\frac{1}{M}$ it

1 is almost a similar situation, if I was investigating the
2 county, how can I use people from that county? So what I
3 did do, I got volunteer law students from the various law
4 schools, approximately 80, and they were great and went to
5 work and we uncovered on this macing area what I considered
6 to be sufficient evidence that in my mind I thought that there
7 was macing going on. Because I felt that I ought not to deal
8 with the Delaware County judges, who were also creatures, at
9 that time, of the political organization, I went to the Chief
10 Justice of the Pennsylvania Supreme Court and got a search
11 and seizure warrant for Republican headquarters in Delaware
12 County, and with my volunteers, some assistance I got from some
13 Philadelphia people, we went in and we seized the financial
14 records of the Republican Party in Delaware County.

15 ¶ You can imagine what howls that brought from them and the
16 District Attorney who had appointed me the Special Prosecutor.
17 In going through those records of contributions, I found what
18 in my view was a pattern of contributions which were suggestive
19 of macing; i.e., people whose salary was, let's say, a certain
20 amount, \$10,000. It is a figure, they all contributed a certain
21 percentage. When the salary was an additional amount, it was
22 a little higher percentage.

23 But when we went and interviewed all of these people to
24 prove a macing case it is not enough that there is a contri-
25 bution. You have to show that there is a coercive pressure

1 stated, and those people would all say no, I love the ~~Grand~~
 2 ~~Old Party~~, and I made the contribution because I want to support
 3 the party of my choice. Yeah, I gave this amount, and that is
 4 the amount we are all giving, and there were no threats
 5 expressed, and the probability is that no threat ever was
 6 expressed. It may be something that at times is felt by
 7 employees, but when you have got a total control, as the
 8 organization had there, they do not have to express threats.

9 // The end result was that we did not develop what I call
 10 provable cases.

11 I must say I turned those records over to the State
 12 Crime Commission, or made them available to them. I made them
 13 available to the U.S. ~~Attorney's~~ office and the Internal
 14 Revenue Service. I say that because while I have been attacked
 15 for that report, everybody thought I am going to come up and
 16 get great cases against everybody and I came up saying I did
 17 not get provable cases, I have been attacked as though well,
 18 you should have, and my response has been, but nobody else
 19 has either up to that period of time, including the U.S.
 20 ~~Attorney~~ who has subpoena power, and the FBI.

21 When I came out with my report ~~1/2~~ really, just one more
 22 minute and I will be finished ~~1/2~~ I blasted in my report the
 23 State Crime Commission for the very things that I am talking
 24 about. How dare they have made these broad, blunderbuss
 25 attacks and never back them up and not cooperate.

1 Well, in turn, what Mr. Burnham talks about is the
2 State Crime Commission's attack on me. He doesn't point out
3 that their attack on me was in response to my attack on them,
4 and their attack on me was saying, Mr. Sprague, you uncovered
5 the whole Yablonski thing and you got people to talk, how
6 come you couldn't get people to talk in Delaware County?

7 There is a whale of a difference when you have got a
8 murder penalty of life and death in getting someone to talk
9 than when you have got a \$100 fine as a penalty.

10 The Chairman. We are running late, and there is a vote.
11 Mr. Dodd. What are we going to do?

12 The Chairman. I would think that we have gone pretty
13 long today, that perhaps we ought to now recess, subject to
14 further call.

15 Mr. Dodd. Are you going to try for tomorrow?

16 The Chairman. Yes; if everybody is available. We are
17 trying to set a time and room tomorrow.

18 [Whereupon, at 4:43 ~~o'clock~~ p.m., the Committee recessed
19 subject to the call of the Chair.]

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