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Note plus case file #2-2c	James F. Neal to Herbert J. Miller (w/attachments)	4/10/63	C
Memo #4	James F. Neal to Herbert Miller	4/2/63	C
Memo #5, 5a	James F. Neal to Herbert Miller (w/attach.)	4/2/63	C
Memo #6-6c	James F. Neal to Herbert Miller(w/attach.)	4/5/63	C
Memo #7, 7a	James F. Neal to Herbert Miller(w/attach.)	4/3/63	C
Memo #8, 8a	James F. Neal to Herbert Miller (w/attach.)	4/1/63	C
Memo #12	Robert Peloquin and Edward P. Harrington to Herbert J. Miller	3/15/63	C
Memo w/ attach. case file #13-13h	James F. Neal to Herbert Miller (w/attach.)	2/26/63	C

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UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

3

Memorandum

TO : Mr. Ramsey Clark, Assistant Attorney General, Lands Division

DATE: April 10, 1963

FROM: Herbert J. Miller, Jr., Assistant Attorney General, Criminal Division

SUBJECT: Nashville Investigation

Attached are the following materials to be discussed at a meeting in the Attorney General's office on Thursday, April 11, 1963, at 9:00:

1. Memorandum dated April 2, 1963, entitled Addendum to Prosecutive Memorandum James R. Hoffa and Ewing King of February 22, 26, 1963;

2. Memorandum dated April 3, 1963, entitled Addendum to Prosecutive Memorandum re James R. Hoffa, Allen Dorfman and Nicholas J. Tweel dated March 6, 1963;

3. Memorandum dated April 2, 1963, entitled Addendum to Prosecutive Memorandum entitled, "Allen from the Banner"; Herman Frazier, A. N. Paden and A. P. Cole of March 6, 1963;

4. Prosecutive Memorandum dated April 3, 1963, relating to Henry F. Bell and William T. Morgan;

5. Prosecutive memorandum dated April 1, 1963, regarding Lawrence W. Medlin; and

6. Memorandum dated March 27, 1963, relating to joinder problems.

RECEIVED
Apr 11 9 22 AM '63
ASST. ATTORNEY GENERAL
LANDS DIVISION
DEPT. OF JUSTICE

As indicated, items 1, 2, and 3 relate to previous memoranda which I believe have been circulated to some of you. If you do not have copies of these earlier memoranda please have your secretary contact Mr. William's office and he will make them available to you. Items 4 and 5 supersede the earlier prosecutive memorandum dated March 6, 1963, relating to Medlin, Weiss, Bell, and Morgan. Item 6 above was requested to deal with the specific joinder problems involved in any indictment against Hoffa which might seek to link two or more endeavors to obstruct justice.

WILLIAM TURNER MORGAN

186	Sometime in September 1962, he met Harold "Buster" Bell through a friend of his named Irwin Cahn. He met Bell at the hotel.	3 & 4
187	Louise Graves was also present at this meeting.	5
188	Bell gave him a radio on this occasion and an orchid for his wife.	6 & 7
189	Bell is Benedict's brother-in-law.	7 & 8
190	He never met Phil Weiss.	9
191	Bell came to his house one morning.	14 & 15
192	He saw a jury list at his home - the list being published on the front page of the paper.	18

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : James F. Neal

DATE: March .., 1963

FROM : Nathan Lewin

NL:sp

SUBJECT: Hoffa jury tampering -- joinder problems.

A more exhaustive survey of the case law than was conducted in preparation for my memorandum of March 11, 1963, to Mr. Miller convinces me that an indictment following the pattern of Alternative V in your memorandum of March 15, 1963, could satisfy Federal Rule of Criminal Procedure 8 and could withstand a motion for Severance. Since that sort of indictment is closer to the facts which could be proved at trial and is not subject to a possible Kotteakos infirmity, it appears to be the best of the alternatives you have outlined and better than any other I can think of.

A. The Proposed Indictment.t

Alternative V would call for a six-count indictment structured pretty much as follows:

Count I	- Hoffa and Kingt	- 18 U.S.C. 371t
Count II	- Hoffa and Kingt	- 18 U.S.C. 1503t
Count III	- Hoffa, Tweel, and Dorfman	- 18 U.S.C. 371t
Count IV	- Hoffa, Tweel, and Dorfmant	- 18 U.S.C. 1503t
Count V	- Hoffa, Campbell, and O'Brien	- 18 U.S.C. 371t
Count VI	- Hoffa, Campbell, and O'Brien	- 18 U.S.C. 1503t

In other words, it would allege three separate conspiracies, in each of which Hoffa was a participant, and three separate substantive violations of 18 U.S.C. 1503. The common ties which would bind the three sets of offenses would be: (1) the common actor -- Hoffa, (2)tthe similarity of the offenses, (3) the similarity of purpose -- to influence a juror in the Hoffa trial, (4) the proximity in time -- all taking place around the time of the Nashville trial, and (5) thet proximity of place -- all offenses occurring, at least partly, in andt around Nashville.t

B. Existing case law.

The leading cases supporting an indictment of the sort which is outlined above are the following: Catanco v. United States, 167 F. 2d 820 (4th Cir. 1948); Scheve v. United States, 184 F. 2d 695 (D.C. Cir. 1950); Kivette v. United States, 230 F.2d 749 (5th Cir.), cert. denied, 355 U.S. 935 (1956); United States v. Rosenfeld, 235 F. 2d 544 (7th Cir. 1956), cert. denied 352 U.S. 928 (1957); Wiley v. United States, 277 F. 2d 820 (4th Cir. 1960); Williamson v. United States, 310 F. 2d 192 (9th Cir. 1962); United States v. Lev, 22 F.R.D. 490 (S.D. N.Y. 1958). Thee first two of these cases are discussed at length in my memorandume of March 11. The others are as follows:

The closest case to the one at bar is United States v. Rosenfeld, supra. The case concerned a construction company owned by one Cutler, and the indictment charged Cutler with having made several false representations of purchasers' credit to the Federal Housing Administration. The indictment was in six counts and concerned three separate false representations. As to each, the indictment charged a conspiracy between Cutler and one of his salesmen and the commission of the substantive offense (violation of 18 U.S.C. 1010) by the alleged conspirators. Consequently, the indictment named Cutler and A (i.e., Rosenfeld) in Counts I and II, Cutler and B in Counts III and IV, and Cutler and C in Counts V and and VI. 1/ Counts III and IV were severed before trial because B's counsel was not present on the day of the trial. But Rosenfeld's motion for severance was denied. The case proceeded to trial on the remaining counts (I, II, V, and VI). The jury found Cutler and Rosenfeld guilty on Counts I and II, but acquitted all the defendants on the remaining two counts. On appeal, Rosenfeld contended that it was error to try him together with C (and, presumably, D). The

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1/ While the opinion of the Court of Appeals states that Counts V and VI named only Cutler and one Robertson, the briefs in the case disclose that Count VI, which charged the substantive offense, also named one John William Johnson as a co-defendant. Hence it would be more accurate to say that Cutler and C were named in Count V, and that Cutler, C, and D were named in Count VI.

Court of Appeals rejected this contention, noting that the "gravamen of the indictment lies in 18 U.S.C. 1010". It quoted Rule 8(b) which, it said, was "standing refutation of Rosenfeld's argument in support of severance or faulty joinder". The court distinguished its own Tuffanelli opinion (discussed infra) and McElroy on the ground that "a clearly discernible pattern of action involving Cutler and his salesmen is traceable from the face of this record". 235 F. 2d at 545. Unfortunately, the court was not more explicit as to why it found that Rule 8(b) had been satisfied, but the reference to "a clearly discernible pattern" indicates that it considered the similarity of the offenses involving a single central figure to be sufficient to constitute the "series of acts or transactions" prescribed by Rule 8(b).

Another decision which is most relevant to the problem raised here is United States v. Lev, supra. Lev concerned a 31-count indictment in which 8 defendants were named. Of the 31 counts, 5 charged separate conspiracies among two importers and various customs inspectors to permit illegal importation and to pay and receive bribes. The 26 substantive counts centered on the actual smuggling and bribery. One of the customs inspectors, named Mandel, was connected with only a single instance of smuggling and one attendant bribery. He was named in only one conspiracy count and in three substantive counts. Before trial he moved for a severance of the counts in which he was named. Judge Irving Kaufman, then on the District Court, denied the motion. He first quoted Rule 8(b)'s language relating to a "series of acts or transactions", and then said:

> The instant indictment satisfies these requirements. The Government urges that the offenses charged are all part of the same series of transactions; that the conspiracy involving Mandel is coterminous in time with the other conspiracies and involves the same persons. It is the position of the Government, that while technically, five separate conspiracies are charged, they all flow from the same overall plan or scheme. 22 F.R.D. at 491.

The reasoning used by the Fifth Circuit in sustaining the joinder of offenses and defendants in Kivette v. United States, supra, also supports the validity of an indictment following the

pattern of Alternative V. In Kivette a 10-count indictment was entered against the Kivette family on various charges pertaining to their possession and sale of moonshine. The indictment was structured as follows:

Counts I and II	-	Dow Kivette	- Possessing and Transporting	- 6/23/54
Counts III, IV and V	-	Dow Kivette and Lima Lynn Kivette	- Possessing, Transporting, and Selling	- 6/29/54
Counts VI, VII, and VIII	-	Billy Joe Kivette	- Possessing, Transporting, and Selling	- 7/1/54
Counts IX and X	-	Lima Lynn Kivette	- Possessing and Selling	- 7/1/54

Before trial counts VI, VII and VIII were severed, so that only Dow and Lima Lynn (husband and wife) went to trial together on the remaining seven counts. No conspiracy count was included in the indictment. Nonetheless, on appeal from their convictions on all counts except Count II, the Court of Appeals sustained the joinder:

> The appellants' argument that these offenses could not be charged in one indictment because the sales on different dates were separate transactions ignores the provision in Rule 8(a) that two or more offenses may be joined in one indictment if they are 'of the same or similar character'. The construction for which appellants contend, i.e., that separate offenses cannot be joined unless it is alleged that they were part of a continuous transaction or conspiracy, would in effect read these words out of the Rule. 230 F. 2d at 753.

As for the claim that it was improper to join the defendants since Dow was named separately in Counts I and II and Lima Lynn separately in Counts IX and X, the court noted that the concluding sentence of Rule 8(b) provided that "all of the defendants need not be charged in each count". It then reasoned that the problem was how to harmonize the quoted provision with the provision of Rule 8(b) that joinder is permissible if the defendants participated "in the same series of acts or transactions". Relying on Scheve v. United States, 184 F. 2d 695 (D.C. Cir. 1950), which is discussed fully in my memorandum of March 11, the Court of Appeals concluded that Rule 8(b) permits "joinder of all defendants engaged in a connected course of conduct out of which arose separate crimes alleged against different persons". 230 F. 2d at 753.

The court in Kivette could, of course, have reached the same result by concluding that Mr. and Mrs. Kivette could have been charged with a conspiracy to violate the revenue laws, and that joinder is permissible whenever the substantive offenses charged were committed in pursuance of a general scheme or plan, whether or not the scheme or plan is separately charged as an offense. However, the court did not use this available approach. Instead it treated the indictment as if there had been no conspiracy charge possible, and sustained joinder merely on a showing that the offenses were committed as part of a "connected course of conduct".

Wiley v. United States, supra, also concerned a family business, but the commodity in which the family dealt was marijuana rather than moonshine. The cast of characters included Jacob Wiley, Eva Wiley (Jacob's wife), and Christine (their daughter). Trial was had on three counts of a five-count indictment, the remaining counts having been dismissed prior to trial:

Count II - Jacob and Christine - sale - 6/11/58
Count IV - Eva and Christine - sale - 7/8/58
Count V - Eva - purchase - 8/18/58

The defendants, who moved for a severance before trial, were found guilty on all counts.

On appeal the Fourth Circuit made reference to its then recent Ingram decision, 272 F. 2d 567 (4th Cir. 1959) (discussed fully in my earlier memorandum), and inferred from it that a refusal to sever is reversible error only if it amounts to an abuse of discretion. The court then said in conclusionary terms:

> It is plain that there was no abuse of discretion in denying the motions for severance in the pending case. It was alleged in the indictment and proved that the defendants participated in the same series of acts, all of which involved transactions in the transfer or possession of marijuana seed during a short period in the summer of 1958. The joinder of father and daughter in the first transaction, the joinder of mother and daughter in the second transaction, and the separate charge against the mother in the third transaction fell strictly within the terms of the rule, and there was no prejudice to the

> three defendants in trying them together other than that which necessarily attends every joinder of defendants for trial under the established procedure. Rule 8, as we have seen, specifically provides that all of the defendants need not be charged in each count. 277 F. 2d at 824.

Williamson v. United States, 310 F. 2d 192 (9th Cir. 1962), is important simply because the Court of Appeals there held that naming in a single conspiracy count all defendants who are joined in the indictment does not alone support the joinder. The court denominated this "a misapprehension reflected in the government's brief". 310 F. 2d at 197, n. 16. It added:

> Where multiple defendants are involved, Rule 8(b) requires that each count of the indictment arise out of 'the same series of acts or transactions' in which all of the defendants 'have participated'. ...Since in the present case the conduct upon which each of the counts is based was part of a series of factually related transactions in which all of the defendants participated, the charges were properly joined, although the various offenses were distinct and all of the defendants were not charged in each count. Ibid.

If the approach of Williamson is followed, it might not avail here to include an overall conspiracy charge in the indictment. The court would nonetheless look beyond it to see the "factual relation" among the defendants and offenses which are joined.

Finally, another decision in which an alternative holding bears upon our situation is Kleven v. United States, 240 F. 2d 270 (8th Cir. 1957). Kleven and Maetzold were charged in a five-count indictment with purchase, concealment, and facilitating the transportation of wheat that had been illegally imported from Canada:

Count I	- Kleven	- concealment	- 12/17/54
Count II	- Maetzold	- purchase	- 12/17/54
Count III	- Kleven	- purchase	- 12/22/54
Count IV	- Maetzold	- purchase	- 12/22/54
Count V	- Kleven	- facilitating transportation	- 1/22/55

The evidence disclosed that the two of them had made arrangements with a Canadian farmer to have the wheat smuggled into the United States, and that on each of the first two occasions it was unloaded by the Canadian farmer in the presence of both Kleven and Maetzold, who purchased the wheat. In January 1955 Kleven had caused another shipment to be transported to a third purchaser.

Before trial the defendants had moved to dismiss the indictment for improper joinder. The motion was denied. On review of their convictions, the Court of Appeals held that Federal Rule of Criminal Procedure 8 "provides that several defendants may be charged in separate counts of a single indictment if, as here, the defendants are alleged to have participated in the same series of acts or transactions constituting an offense or offenses", and it held that the joinder was not improper. It is likely, however, that this result was affected somewhat by the alternative holding that "if the indictment had been subject to attack for misjoinder of offenses and defendants -- which we think it was not -- the proper remedy would have been a motion for severance under Rule 14 of F. R. Cr. P., rather than a motion to dismiss the indictment". 240 F. 2d at 272.

An odd decision in the area is United States v. Tuffanelli, 131 F. 2d 890 (7th Cir. 1942). Tuffanelli and Bonarski were named, along with two others, in a 10-count indictment relating to their unlawful moonshine activities. Four of the counts were dismissed before trial, but Count X, which alleged a conspiracy among the four to commit the substantive offenses enumerated in Counts I through IX, remained. All the defendants were named in each count. At the trial, three of the defendants were found guilty on the conspiracy count and on various substantive counts. Apparently, Tuffanelli and Bonarski contended that they were improperly joined for trial with each other and with the third convicted defendant with respect to such substantive counts as failed on appeal for want of evidence. (The Court of Appeals reversed Tuffanelli's conviction on three counts for want of evidence and Bonarski's conviction on one count for the same reason.) The Court of Appeals rejected their claim by a divided vote, and even the majority seemed to entertain some doubt as to whether the joinder was proper. Conceding that it did "not approve the practice followed in this case", the majority nonetheless affirmed the convictions "since all the counts charged closely related offenses, based upon a series of transactions constituting a preconceived system and plan to defraud the United States of the revenue imposed on distilled liquor". 131 F. 2d at 894.

Tuffanelli was decided before the Federal Rules of Criminal Procedure, and this may explain the court's failure to advert to the obvious fact that if the defendants were found guilty of conspiring to commit the substantive offenses, they were properly tried together for these offenses. And whatever validity Tuffanelli may have had after the promulgation of the Federal Rules was probably sapped by Rosenfeld, supra, the more recent Seventh Circuit decision.

The Sixth Circuit has been unfortunately silent on these questions. The closest decisions have been Castellini v. United States, 64 F. 2d 636 (6th Cir. 1933), and Ross v. United States, 197 F. 2d 660 (6th Cir. 1952). Castellini was decided before the adoption of the Federal Rules, and it involved two indictments which were consolidated for trial. The first charged Castellini and two others with making false entries in the books of a national bank. The second charged Castellini and one of the co-defendants in the first indictment with misapplying funds belonging to the bank. Castellini was convicted on one of the counts in the second indictment and was acquitted on all other counts. The Court of Appeals reversed his conviction on the ground that it was error to consolidate the two indictments. It noted that the defendants were not the same in both indictments and that the indictments charged separate and distinct offenses. Consequently, the court applied McElroy and reversed the conviction. While the false entries related to the same kind of securities with respect to which Castellini was charged with misapplication, the dates of the offenses appear to have been different and there was no indication that the entries and misapplications were done pursuant to a prearranged plan.

In Ross, the Sixth Circuit distinguished Castellini and McElroy and sustained joinder. The case concerned a second trial of three defendants who were charged with making false statements in F.H.A. applications. At their first trial (which resulted in a reversal), two of the defendants were acquitted on certain counts as to which the third defendant was convicted. They contended before their second trial that it would be prejudicial to join their trials with the third defendant, who still had to meet charges on those counts. The motion for severance was denied, and on appeal from convictions in the second trial the Sixth Circuit affirmed. The main ground of affirmance was simply that severance and joinder was a matter for the discretion of the District Court, and this was not an instance in which such discretion had been abused. The court also seemed to rely somewhat on the notion that where the defendants are "closely associated in transactions involving the offense charged", 197 F. 2d at 664, it is proper to join them for trial.

C. Federal Rules of Criminal Procedure 8 and 14.

Whether or not Alternative V is permissible depends, in the first instance, on Federal Rule 8, which the cases discussed supra purport to apply. It seems clear that if an indictment were filed naming Hoffa alone, the joinder of offenses would be appropriate under the provision of Rule 8(a) permitting joinder of offenses "of the same or similar character". Since Hoffa is named in all the counts of the proposed indictment, it seems clear that he would be unable to object to the joinder. The only objection could be made by co-defendants who are named in only two counts and object to being tried along with Hoffa and the others in the overall trial. Their claim prior to trial would be that the counts in which they are named should be tried separately because the defendants may not be tried together under Rule 8(b).

If these defendants (e.g., Campbell and O'Brien) are working together with Hoffa and are concerned with Hoffa's interest -- as they are likely to be -- they will move to have severed the entire counts in which they are named. If these motions are granted, the result would be that the case against Hoffa would be fragmentized in an undesirable way. While Rule 14 broadly authorizes the court to grant either "separate trials of counts" or "a severance of defendants", and empowers it to "provide whatever other relief justice requires", the court may exercise its discretion -- if it chooses to do so -- in favor of splitting the indictment into three separate trials. This would require a separate proceeding for each individual endeavor to influence a juror. Since the evidence regarding each of the three attempts is not overlapping, we would be unable to contend that there would be substantial judicial economy in trying the three attempts together. Some of the witnesses in the various cases might be the same, but their testimony would be different in each instance.

For this reason, I think it would be most difficult to argue that if the defendants' claims of prejudice are valid, they alone should be severed -- i.e., that the six counts against Hoffa should be tried together in one proceeding and that this be followed by three separate cases against his named co-defendants. For it would be obvious to the court from the allegations of separate conspiracies that each of the three attempts involves distinct proof, and that if Hoffa were tried separately, the same evidence that would be introduced

at his trial would then be repeated in the separate trials of his co-defendants. While severance of the defendants would then protect them from prejudice, it would require duplication of evidence and would be a waste of judicial resources. Consequently, from the point of view of the court it would be most sound -- if joinder is likely to be prejudicial -- to split the one case into three and try Hoffa along with each set of alleged co-conspirators on each attempt.

Our best chance, therefore, depends on convincing the court that joinder is both permissible under Rule 8(b) and not likely to be prejudicial under Rule 14. 2/ Rule 8(b) seems to be the easier of these two hurdles.

The critical provision in Rule 8(b) which is relevant to our problem is that which permits joinder of defendants "if they are alleged to have participated . . . in the same series of acts or transactions constituting an offense or offenses".

2/ It should be noted that the mere fact that a particular joinder of defendants satisfies Rule 8(b) does not mean that the court is powerless to order a severance or separate trial of counts if he thinks prejudice is likely to result. E.g., United States v. Guterma, 181 F. Supp. 195 (E.D. N.Y. 1960). Indeed, the Supreme Court in United States v. Schaffer, 362 U.S. 511 (1960), indicated that it is a trial judge's duty, even where joinder is authorized by Rule 8(b), to be on guard during the trial lest one of the defendants be prejudiced by being tried together with another accused of a separate offense. Hence the problem is a continuing one and does not abate simply because a Rule 14 motion is once denied.

In the first place, this language should be contrasted with that of Rule 8(a), which permits joinder of offenses "connected together or constituting parts of a common scheme or plan". The wording of Rule 8(a), insofar as it speaks of a "common scheme or plan", includes within its scope acts committed pursuant to a conspiratorial agreement, but it is not as broad as Rule 8(b)'s language authorizing joinder for participation in a "series of acts". If the draftsmen of Rule 8(b) meant to limit joinder of defendants to those who participated in acts committed pursuant to a conspiracy in which they were members, 8(b) could have provided -- as 8(a) does -- for joinder of defendants "alleged to have participated ... in acts or transactions ... constituting parts of a common scheme or plan". This Rule 8(b) did not do. Instead it provided for joinder of participants in a "series of acts", and the increased breadth discloses an intention to permit joinder of others than were co-conspirators.

Moreover, the intent of the draftsmen to permit liberal joinder when it would not be too prejudicial and would conserve judicial resources also appears from the second sentence of Rule 8(b). The provision that "all of the defendants need not be charged in each count" discloses an intention to permit joinder even when the offenses were not committed jointly or in pursuance of a preconceived plan to which all defendants were parties. For if the sole purpose of the Rule were to permit only such joinder, the best test of whether the joinder was proper would be whether all the defendants could be charged in each count.

The cases construing Rule 8(b) have obviously taken this approach. Cataneo, Scheve, Rosenfeld, and Lev seem to be square authority in support of the proposition that Rule 8(b) permits a joinder of the sort proposed here. And I have found no case in which the separate offenses were factually "connected" (by some tie other than place, time, or identity of a defendant) in which a court has held the combined trial to have constituted misjoinder. Here the obvious factual tie -- similar to that in Cataneo, stronger than that in Scheve, and far more binding then those in Rosenfeld and Lev -- is the common purpose of each of the offenses. While each may be reduced to a narrow aim -- e.g., to influence Mrs. Paschal or to influence Gratin Fields -- they must be conceded to have had the similar goal of improperly influencing the jury panel trying the one case. This qualifies them for joinder as surely as the unity of purpose qualified the many separate attempts to influence jurors in Calvaresi v. United States, 216 F. 2d 891 (10th Cir. 1951), rev'd on other grounds, 348 U.S. 961 (1955), as a single conspiracy.

This leaves us with the not-too-easy problem of justifying a joint trial of the three separate attempts rather than three separate trials. Hoffa's co-defendants will all contend that evidence pertaining to other jury-tampering attempts of which they had no knowledge will unfairly prejudice the jury against them on their personal accusations. For reasons stated supra, I find it difficult to state a persuasive case for severing out the co-defendants and leaving Hoffa to stand trial on six counts. This could only result in a duplication of evidence and waste of judicial resources. Consequently, I think our best chance is to try to keep all the defendants in the case.

The factual situation in the present case does not present as appealing a framework for joint trial as was true in some of the other cases discussed supra and in my memorandum of March 11. Unlike Scheve and Cataneo, this case is not one in which the evidence relating to the commission of one offense would be relevant in proving the commission of another. 3/ Whereas in Scheve it would have been proper and desirable to establish what it was that the defendant and the victim were doing where they were when the attack took place, and this would have related to the gambling charges on which his co-defendants were being tried, the Tweel deal would not be relevant in proving the Paschal affair or the Parks-Fields approach. The same contrast is available with respect to Cataneo. In that case the history of Magliano's communications with the Draft Board would have been relevant to the charges against the two co-defendants. Hence it served the purpose of judicial economy to consolidate the charges for trial.

Here the only evidence that is common to all is evidence to which the defendants may well stipulate -- that there was a trial in progress in Nashville beginning on October 22, 1962, that Hoffa was the defendant, and that twelve identifiable jurors and four identifiable alternates were selected to hear the case. Consequently, the only conservation of judicial resources caused by a joint trial

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3/ Unless, as you appear to suggest in your memorandum, evidence of any attempt by Hoffa at jury tampering is admissible in any of these cases to show intent, plan, design, or absence of mistake. If it is, -- and I think it to be highly questionable -- I don't think it's the sort of thing which can be urged in opposition to a pretrial motion for separate trials.

is that only one jury need be selected and that only one proceeding, albeit almost equal in duration to three separate proceedings, need be conducted. And, of course, we can maintain that we are protecting Hoffa from the harassment of three separate trials by proceeding against him and his co-conspirators in one action. (He will probably be prepared to look this gift horse in the eyeteeth.)

I think it can be persuasively argued that this economy of judicial resource is no less than the economy which results when a single defendant is jointly tried for having committed offenses of "similar character" pursuant to Rule 8(a). Notwithstanding the fact that the evidence is not overlapping it is preferable, when possible, to combine charges and dispose of all at once. This must have been the rationale behind Rosenfeld, Lev, Kivette, and Wiley.

Some solace may be obtained from a principle that has seldom been stated but probably does affect District Judges who are required to pass on motions under Rule 14. It is that "persons jointly indicted should be tried together except upon a strong showing of prejudice". United States v. Bowman, 137 F. Supp. 385, 386 (D.D.C. 1956). Ordinarily, courts will put the burden of proving that prejudice is likely on the party seeking separate trials or severance. United States v. Abrams, 29 F.R.D. 178, 181 (S.D. N.Y. 1961); United States v. Van Allen, 28 F.R.D. 329, 338 (S.D. N.Y. 1961). In the present case, we may contend that careful instructions by the trial judge regarding the individuality of an accused's guilt can fully safeguard Hoffa's co-defendants.

D. Other Alternatives.

I think that Alternative V is preferable to the others you enumerate or any that I can think of, even though it presents the undesirable possibility of three separate trials. The problems with the others are as follows:

Alternative I - Hoffa's co-defendants are not tried for conspiracy, as they deserve to be. Moreover, although I do not agree that the conspiracy count in which only Hoffa is named is duplicitous, that claim may be raised. And since you and Charlie Shaffer seem to be convinced by it (notwithstanding cases to the contrary), the judge may be too.

Alternative II - This would be subject to a Kotteakos attack by the co-defendants if they are convicted of conspiracy. Furthermore, if the judge is convinced that because of Kotteakos the case should not go to the jury, he may think that there was a misjoinder, a la the dissent in Schaffer.

Alternative III - Why omit a conspiracy charge if they were, in fact, guilty of conspiracy?

Alternative IV - Even if we are required to elect before the case goes to the jury, Hoffa will claim that the indictment was multiplicitous and he didn't know what to defend against. The co-defendants will also claim that their being named in the general conspiracy count confused them.

Alternative VI - Same problems as Alternative IV plus the Kotteakos difficulty or Count I.

I have also considered the desirability of filing an indictment against Hoffa alone on six counts and against the groups of co-conspirators separately, and then asking that all be consolidated. This would put the shoe on the other foot by making the Government the moving party. We could then contend that a joint trial would conserve judicial resources because evidence would only have to be presented once. On the other hand, the individual co-conspirators would claim that prejudice is likely, and they might be right. Moreover, I think there is an advantage to putting Hoffa to trial together with his unsavory associates, and the likelihood of this happening is greater if all are indicted together.

UNITED STATES GOVERNMENT DEPARTMENT OF JUSTICE 10

Memorandum

TO : Herbert J. Miller
Assistant Attorney General, Criminal Division

DATE: April 10, 1963

FROM : James F. Neal, Charles Shaffer and James A. Durkin

SUBJECT: OBSTRUCTION OF JUSTICE:
JAMES R. HOFFA, EWING KING,
ALLEN DORFMAN, NICHOLAS TWEEL,
THOMAS PARKS, and LARRY CAMPBELL

It is the purpose of this memorandum to summarize the salient evidence developed by F.B.I. and Grand Jury investigations and covered in separate memoranda entitled Paschal, Tweel-Hall and Fields,[1] and to point out the strengths and weaknesses of an indictment and prosecution covering all of these transactions.

The indictment would be in six counts: Counts One and Two would charge Hoffa and Ewing King with conspiracy to obstruct justice and obstruction of justice (Title 18, United States Code, Sections 371 and 1503); Counts Three and Four would charge Hoffa, Dorfman and Nicholas Tweel with conspiracy to obstruct justice and obstruction of justice; and Counts Five and Six would charge Hoffa, Thomas Parks and Larry Campbell with conspiracy to obstruct justice and obstruction of justice.

Evidence relating to all counts would come from the most important witness in the case,

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1. For detailed analysis refer to the separate memoranda.

C.I., who would testify to statements made to him, or in his presence, by Hoffa showing Hoffa's plans to reach jurors through the use of subordinates, and of these plans as they developed. These statements, if believed, establish that Hoffa had knowledge of, encouraged and aided the various endeavors to reach the jurors. C.I. would also testify to statements made to him by King, Dorfman and other Hoffa associates. Evidence relevant to all approaches would also be available from court attendants to establish the existence of the proceedings against Hoffa, the identity of the jurors and prospective jurors and the close association between Hoffa and the subordinates who made the approaches, e.g., King and Dorfman. Witnesses and photographs are available also to show this association as well as the close association between Hoffa and C.I. One witness can testify to observing King and Hoffa in several private conversations and to the fact that C.I. was so close to Hoffa during the trial that he was given the job of guarding the door to Hoffa's suite in the Andrew Jackson Hotel.

Where relevant, telephone and hotel records are available to corroborate testimony of C.I. and others.

Evidence to support Counts One and Two would come from F.B.I. agents (who conducted the surveillance of King and George Broda), Patrolman James Paschal, Oscar "Mutt" Pitts, Paul Tenpenny and Robert Wilkerson, and would establish clearly that Ewing King approached Patrolman Paschal and offered to help get him a promotion in the Tennessee Highway Patrol if he would induce his wife, then serving as a juror, to vote for acquittal of Hoffa.

As to Counts Three and Four, Dallas Hall would testify that Nicholas Tweel approached him and offered to make it worth his while if he would effect an approach to a juror. C.I. would testify

to conversations and actions among Tweel, Dorfman and Hoffa directed to this end, and the testimony of C.I. and Hall would be corroborated by telephone and hotel records and, in part, by the testimony of such individuals as employees of the Louisville and Nashville Railroad.

Evidence related to Counts Five and Six would come from Carl Fields, Jack Walker, Matttie Leath and Emma Fields. This testimony would clearly establish approaches to members of Juror Fields' family by Thomas Parks who, according to Parks' statement to Carl Fields, was reporting to a person in Louisville. Larry Campbell's connection with this endeavor would come from Mrs. Mattie Nix of Nashville and Ernestine Williams of Louisville, and from telephone and hotel records, all of which would show that Campbell was in telephonic contact with Parks from Louisville. Hoffa and Campbell would be implicated by the testimony of C.I. who would testify Hoffa told him he had the Negro juror in his hip pocket and the approach was being made through his, Hoffa's, Negro business agent, a man named Campbell.

As might be expected, there is ample evidence that the above endeavors to corrupt justice were made. An impartial jury would surely believe King had made an unlawful approach to Patrolman Paschal, that some effort, perhaps half-hearted, had been made to get Dallas Hall to effect an improper approach to a juror and that Parks had endeavored to obstruct justice by his approaches to the family of Juror Fields. However, as might be expected, the evidence grows weaker as the mental eye searches for the force or forces behind these approaches. Yet it seems likely an impartial jury would suspect that someone was behind the contact men. It would be the duty of Government counsel to make that eye rest upon none other than James R.

Hoffa by showing his close association with the contact men prior to and during the trial, and by maintaining the apparent truth that he had the most to gain by the success of these endeavors. This would set the stage for the most important witness.

Direct evidence linking Hoffa with these approaches comes from one person. This person is described in this and the other memoranda as C.I., a close associate of Hoffa. His close association with Hoffa throughout the trial, and therefore, his access to the type of information to which he will testify, will not be subject to serious doubt. Yet this man, with his own questionable record, will have to carry most of the weight of the Government's case against Hoffa. The manner in which he testifies on direct examination and withstands perhaps the most vigorous of cross-examinations will likely determine the outcome of the trial, in so far as Hoffa is concerned. The success of this man's testimony will, in turn, depend in large part on how perfectly prepared he is and by the adroit use of corroborative records relating to his activities and associations with Hoffa during the trial. These records will consist of telephone company "mark sense" cards establishing that a call was made when he said it was made and that he was in the Andrew Jackson Hotel when he said he was, and of photographs showing him with Hoffa and other contact men, such as King and Dorfman, during the progress of the trial.

The case has certain obvious advantages--the crimes are recent, local and reprehensible,[2] and the offenses and testimony are easy to comprehend.

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2. While insignificant legally, the impact of the case would be greater if we had proof of success of any of these endeavors.

Equally important, the investigation was ordered by a judge, not the Department of Justice. All of which restricts the scope for the arguments advanced with such impact in the recently concluded trial. Another advantage, as pointed out in the recent meeting in the Attorney General's office, is that it is easier to believe the testimony that Hoffa was behind these endeavors if more than one close associate is shown to have been involved.

The disadvantages of the case are just as obvious--Hoffa's involvement rests upon the testimony of one witness, corroborated as he is by the fact that it was Hoffa on trial and by the fact that the men making or handling the approaches were his close associates. Another disadvantage is in the use made of C.I. by the Government during the previous trial. It is through this that the defense may be able to introduce the vendetta argument. Other possible disadvantages are the danger of a substantial continuance or change of venue under Rule 21(a), F.R. Cr. P., and the possibility of severance of the counts under Rule 14, F.R. Cr. P.

Should these offenses be tried together, approximately thirty witnesses would be called. Eleven or twelve of these would merely produce records. The Government's case, including selection of the jury, would consume approximately fifteen days. This, of course, would be a disadvantage compared with trial of the Paschal approach alone, which would involve approximately ten witnesses and consume, including selection of the jury, approximately eight days.

100a

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

- - - - - - - - - - - - - - - - - -

UNITED STATES OF AMERICA
Plaintiff

v.

Criminal No._____

ALLEN DORFMAN
JAMES R. HOFFA
NICHOLAS J. TWEEL
EWING KING
LARRY CAMPBELL
THOMAS EWING PARKS
FRED JENKINS
Defendants

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COUNT ONE

The Grand Jury charges:

1.1 That from on or about September 1, 1962, up to and including December 22, 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, ALLEN DORFMAN, JAMES R. HOFFA, and NICHOLAS J. TWEEL, defendants herein, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree together, and with diverse other persons whose names to the Grand Jury are unknown, to commit offenses against the United States, to wit: to violate Title 18, United States Code, Section 1503, in that the said defendants and co-conspirators did combine, conspire, confederate and agree together corruptly to endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division.

2. That it was part of said conspiracy corruptly to cause unauthorized communications to be made with petit

jurors who, on October 25, 1962, had been impaneled in the United States District Court for the Middle District of Tennessee, Nashville Division, in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with respect to the said jurors' actions, votes, opinions and decisions concerning the said trial before the return of the verdict.

3. That it was a further part of said conspiracyt to learn the identity of persons who were acquainted with petit jurors who, on October 25, 1962, had been impaneled in the said case, and of persons who could, by communication with the said petit jurors, influence, intimidate and impede the said petit jurors in the discharge of their duties in the said case.

OVERT ACTS.

In furtherance of the said conspiracy and to effect the objects thereof, the said defendants and co-conspirators committed, among others, the following overt acts:

1.t On or about October 21, 1962, in the Middlet District of Tennessee, Nashville Division, NICHOLAS J. TWEEL, a defendant herein, registered at and took a room in the Andrew Jackson Hotel in Nashville, Tennessee.

2.t On or about October 22, 1962, in the Middlet District of Tennessee, Nashville Division, NICHOLAS J. TWEEL, a defendant herein, had a conversation with Dallas Hall.

3. In or about the month of November 1962, int the Southern District of West Virginia, NICHOLAS J. TWEEL, a defendant herein, made a telephone call to Dallas Hall, who

was then within the Middle District of Tennessee, Nashville Division.

4. On or about November 27, 1962, in the MiddleD District of Tennessee, Nashville Division, ALLEN DORFMAN and JAMES R. HOFFA, defendants herein, entered the Louisville and Nashville Railroad Union Station located at Tenth Street and Broadway in Nashville, Tennessee.

5. On or about November 27, 1962, in the SouthernD District of West Virginia, NICHOLAS J. TWEEL, a defendant herein, made a telephone call to Dallas Hall, who was then within the Middle District of Tennessee, Nashville Division. (Title 18, United States CodeD Section 371.)

COUNT TWO

The Grand Jury further charges:

That on or about November 27, 1962, in the Southern District of West Virginia and in the Middle District of Tennessee, Nashville Division, ALLEN DORFMAN, JAMES R. HOFFA and NICHOLAS J. TWEEL, defendants herein, did unlawfully, knowingly, wilfully and corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division, in that the said defendants did offer aD thing of value and a bribe to Dallas Hall for the purpose of causing the said Dallas Hall to learn the identity of persons who could communicate with petit jurors theretofore impaneled in the United States District Court for the Middle District of Tennessee, Nashville Division, in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with respect to the said jurors' actions, votes,

opinions and decisions concerning the said trial before the return of the verdict.

(Title 18, United States Code, Section 1503.)

COUNT THREE

The Grand Jury further charges:

1.n That from on or about September 1, 1962, up ton and including December 6, 1962, in the Middle District of Tennessee, Nashville Division, JAMES R. HOFFA and EWING KING, defendants herein, and George Broda, Oscar V. Pitts, Paul B. Tenpenny, and Robert Wilkerson, co-conspirators but not defendants herein, did unlawfully, wilfully, and knowingly combine, conspire, confederate and agree together, and with diverse other persons whose names to the Grand Jury are unknown, to commit offenses against the United States, to wit: to violate Title 18, United States Code, Section 1503, in that the said defendants and co-conspirators did combine, conspire, confederate and agree corruptly to endeavor to influence, intimidate and impede a petit juror of the United States District Court for the Middle District of Tennessee, Nashville Division, in the discharge of her duty.

2.n That it was part of said conspiracy corruptlyn to endeavor to influence, intimidate and impede, in the discharge of her duty as a petit juror of the United States District Court, Mrs. James M. Paschal, who on or about October 25, 1962, was sworn as Regular Juror Number 9 for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminale No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, as the said defendants and co-conspirators then and there well knew.

3. That it was further part of said conspiracy that EWING KING, a defendant herein, meet with James M. Paschal, the husband of the said Mrs. James M. Paschal, and that the said EWING KING offer to James M. Paschal a thing of value and a bribe for the purpose of causing said James M. Paschal to influence, intimidate and impede the said Mrs. James M. Paschal in the discharge of her duty as a petit juror.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the said defendants and co-conspirators in the Middle District of Tennessee, Nashville Division, committed, among others, the following overt acts:

1.n On or about October 27, 1962, EWING KING,n a defendant herein, drove to the residence of Oscar V. Pitts, a co-conspirator but not a defendant herein, which is located in or around Woodbury, Tennessee.

2.n On or about November 6, 1962, EWING KING, an defendant herein, had a conversation with Paul B. Tenpenny, a co-conspirator but not a defendant herein.

3.n On or about November 17, 1962, EWING KING, a defendant herein, and George Broda, a co-conspirator but not a defendant herein, exchanged automobiles with each other.

4. On or about November 18, 1962, Oscar V. Pitts, a co-conspirator but not a defendant herein, drove to the home of James M. Paschal in Woodbury, Tennessee, in an automobile belonging to George Broda, a co-conspirator but not a defendant herein.

5. On or about November 18, 1962, in the vicinity of Woodbury, Tennessee, EWING KING, a defendant herein, met James M. Paschal, the husband of Mrs. James M. Paschal, and had a conversation with the said James M. Paschal.
(Title 18, United States Code, Section 371.)

COUNT FOUR

The Grand Jury further charges:

1.e That on or about November 18, 1962, in the Middlee District of Tennessee, Nashville Division, JAMES R. HOFFA and EWING KING, defendants herein, did unlawfully, knowingly and corruptly endeavor to influence, intimidate and impede a petit juror of the United States District Court in the discharge of her duty, to wit: Mrs. James M. Paschal who, then was, and was then and there known to the said defendants to be, serving as a petit juror in the case of United States v. James R. Hoffae and Commercial Carriers, Inc. (Criminal No. 13,241), in that thee said EWING KING, a defendant herein, did meet with James M.e Paschal, the husband of the said Mrs. James M. Paschal, and dide offer to James M. Paschal a thing of value and a bribe for thee purpose of causing said James M. Paschal to influence, intimidatee and impede the said Mrs. James M. Paschal in the discharge of her duty as a petit juror.

2.e That in or about the months of October ande November 1962, in the Middle District of Tennessee, Nashville Division, JAMES R. HOFFA, a defendant herein, did unlawfully, knowingly, wilfully and corruptly aid, abet, counsel, command,

induce and procure the said EWING KING, a defendant herein, corruptly to endeavor to influence, intimidate and impede the said Mrs. James M. Paschal who then was and was known to the said JAMES R. HOFFA to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in the discharge of her duty with respect to the said trial. (Title 18, United States Code, Sections 2 and 1503.)

COUNT FIVE

The Grand Jury charges:t

1.t That from on or about September 1, 1962, upt to and including December 20, 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, JAMES R. HOFFA, LARRY CAMPBELL, THOMAS EWING PARKS, and FRED JENKINS, defendants herein, and James T. Walker and Carl Fields, co-conspirators but not defendants herein, did unlawfully, wilfully and knowingly combine, conspire and confederate and agree together, and with diverse other persons whose names to the Grand Jury are unknown, to commit offenses against the United States, to wit: to violate Title 18,t United States Code, Section 1503, in that the said defendantst and co-conspirators did combine, conspire, confederate andt agree corruptly to endeavor to influence, intimidate andt impede a petit juror of the United States District Courtt for the Middle District of Tennessee, Nashville Division,t in the discharge of his duty.t

2.o That it was part of said conspiracy corruptlyo to endeavor to influence, intimidate and impede in the discharge of his duty as a petit juror of the United States District Court, Gratin Fields, who on or about October 25, 1962, was sworn as Regular Juror Number 12 for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, as the said defendants and co-conspirators then and there well knew.

3.o It was further part of said conspiracy thato JAMES R. HOFFA, a defendant herein, caused LARRY CAMPBELL, a defendant herein, to cause THOMAS EWING PARKS, a defendant herein, to offer to members of the family of Gratin Fields, a thing of value and a bribe for the purpose of influencing, intimidating and impeding the said Gratin Fields in the discharge of his duty as a petit juror.

o OVERT ACTSo

In furthernace of said conspiracy and to effect the objects thereof, the said defendants and co-conspirators committed, among others, the following overt acts:

1.o On or about October 22, 1962, in theo Western District of Kentucky, LARRY CAMPBELL, a defendant herein, placed a call to CY 1-8644, a telephone located in Nashville, Tennessee.

3. In or about the months of October and November 1962, in the Middle District of Tennessee, Nashville Division, James T. Walker, a co-conspirator herein, had a conversation with Carl Fields, in or about the premises of 1900 Meharry Boulevard, Nashville, Tennessee.

4. In or about the months of October and November 1962, in the Middle District of Tennessee, Nashville Division, THOMAS EWING PARKS, a defendant herein and James T. Walker, a co-conspirator herein, were present in or about the premises of the J. C. Napier Community Center located in Nashville, Tennessee.

5. In or about the months of October and, November 1962, in the Middle District of Tennessee, Nashville Division, James T. Walker, a co-conspirator herein, had a conversation with Mattie Leath, in or about the premises of the J. C. Napier Community Center located in Nashville, Tennessee.

6. In or about the month of November 1962, in the Middle District of Tennessee, Nashville Division, FRED JENKINS, a defendant herein, placed a call to AL 6-1223, a telephone located in Nashville, Tennessee, and had a telephone conversation with Carl Fields, a co-conspirator herein.

(Title 18, United States Code, Section 371.)

COUNT SIX

The Grand Jury further charges:

1., That in or about the months of October, November, and December 1962, in the Middle District of Tennessee,

Nashville Division, JAMES R. HOFFA, LARRY CAMPBELL, THOMAS EWING PARKS and FRED JENKINS, defendants herein, did unlawfully, knowingly and corruptly endeavor to influence, intimidate and impede a petit juror of the United States District Court in the discharge of his duty, to wit: Gratin Fields, who then was, and was then and there known to the said defendants to be, serving as a petit juror in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in that the said THOMAS EWING PARKS, a defendant herein, did meet with Carl Fields, the son of the said Gratin Fields, and did offer to Carl Fields, a thing of value and a bribe for the purpose of causing said Carl Fields to influence, intimidate and impede the said Gratin Fields in the discharge of his duty as a petit juror.

2.e That in or about the months of October,e November and December 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, JAMES R. HOFFA, a defendant herein, did unlawfully, knowingly, wilfully and corruptly aid, abet, counsel, command, induce and procure the said THOMAS EWING PARKS, a defendant herein, corruptly to endeavor to influence, intimidate and impede the said Gratin Fields, who then was and was known to the said JAMES R. HOFFA to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241),

in the discharge of his duty with respect to the said trial.

(Title 18, United States Code, Sections 2 and 1503.)

11

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA
Plaintiff

v. Criminal No._____

HENRY F. BELL
WILLIAM TURNER MORGAN
Defendants

COUNT ONE

The Grand Jury charges:

1. That from on or about September 10, 1962, up to and including October 25, 1962, in the Middle District of Tennessee, Nashville Division, HENRY F. BELL and WILLIAM TURNER MORGAN, defendants herein, and Irwin Cahn, a co-conspirator but not a defendant herein, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree together, and with diverse others whose names to the Grand Jury are unknown, to commit offenses against the United States, to wit: to violate Title 18, United States Code, Sections 206 and 1503.

2. That it was part of said conspiracy corruptly to endeavor to influence, intimidate and impede a petit juror of the United States District Court for the Middle District of Tennessee, Nashville Division, in the discharge of his duty, to wit: William B. Morgan, who then was, and was then and there known to HENRY F. BELL and WILLIAM TURNER MORGAN, defendants herein, to be, on the petit jury venire

from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

3. That it was further part of said conspiracy to give, offer, and promise money, thing of value, and a bribe to William B. Morgan, who then was, and was then and there known to HENRY F. BELL and WILLIAM TURNER MORGAN, defendants herein, to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with intent to influence the said William B. Morgan's action, vote, opinion, and decision respecting the said trial.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the said defendants and co-conspirators in the Middle District of Tennessee, Nashville Division, committed the following overt acts:

1. On or about September 24, 1962, HENRY F. BELL, a defendant herein, registered and took a room at the Hermitage Hotel in Nashville, Tennessee.

2. On or about September 26, 1962, Irwin Cahn, a co-conspirator but not a defendant herein, at the request of HENRY F. BELL, a defendant herein, made a telephone call from the Hermitage Hotel to the offices of the Nashville Banner.

3. On or about October 16, 1962, HENRY F. BELL, a defendant herein, registered and took a room at the Hermitage Hotel in Nashville, Tennessee.

4. On or about October 20, 1962, HENRY F. BELL, a defendant herein, went to the house of WILLIAM TURNER MORGAN, a defendant herein, located at or near Granny White Pike, in Brentwood, Tennessee.

5. On or about October 21, 1962, WILLIAM TURNER MORGAN, a defendant herein, made a telephone call to William B. Morgan, who was then a prospective petit juror in the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

1. That on or about October 21, 1962, in the Middle District of Tennessee, Nashville Division, WILLIAM TURNER MORGAN, a defendant herein, did unlawfully, knowingly, wilfully and corruptly endeavor to influence, intimidate and impede a petit juror of the United States District Court in the discharge of his duty, to wit: William B. Morgan, who then was, and was then and there known to WILLIAM TURNER MORGAN, a defendant herein, to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

2. That in or about the months of September and October 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, HENRY F. BELL, a defendant herein, did unlawfully, knowingly, wilfully and corruptly aid, abet, counsel, command, induce and procure the said WILLIAM TURNER MORGAN, a defendant herein, corruptly to endeavor to influence, intimidate and impede the said William B. Morgan, who then was, and was known to the said HENRY F. BELL to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in the discharge of his duty with regard to the said trial.

(Title 18, United States Code, Sections 2 and 1503.)

COUNT THREE

The Grand Jury further charges:

1. That on or about October 21, 1962, in the Middle District of Tennessee, Nashville Division, WILLIAM TURNER MORGAN, a defendant herein, did unlawfully, knowingly, and wilfully offer, promise and agree to pay money, thing of value, and a bribe, to wit: the sum of twenty-five thousand dollars, to William B. Morgan, who then was, and was then and there known to WILLIAM TURNER MORGAN to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241),

with intent to influence the action, vote, opinion, and decision of the said William B. Morgan in the said trial.

2. That in or about the months of September and October 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, HENRY F. BELL, a defendant herein, did unlawfully, knowingly, and wilfully aid, abet, counsel, command, induce and procure the said WILLIAM TURNER MORGAN to offer, promise and agree to pay money, thing of value and a bribe to William B. Morgan, who then was, and was then and there known to HENRY F. BELL, a defendant herein, to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with intent to influence the said William B. Morgan's action, vote, opinion and decision in the said trial. (Title 18, United States Code, Sections 2 and 206.)

COUNT FOUR

The Grand Jury further charges:

That in or about the months of October and November 1962, in the Middle District of Tennessee, Nashville Division, HENRY F. BELL, defendant herein, did unlawfully, knowingly, wilfully and corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division, in that the said HENRY F. BELL, defendant herein, did offer a sum of money to Nathan Bellamy and did endeavor

to cause the said Nathan Bellamy to influence, intimidate, and impede petit jurors who had theretofore been impaneled in the United States District Court for the Middle District of Tennessee, Nashville Division, in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with respect to the discharge of the said petit jurors' duties in the said case.

(Title 18, United States Code, Section 1503.)

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

- - - - - - - - - - - - - - - -

UNITED STATES OF AMERICA
Plaintiff

v. Criminal No._____

LAWRENCE W. MEDLIN
Defendant

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COUNT ONE

The Grand Jury charges:

That on or about October 23, 1962, in the Middle District of Tennessee, Nashville Division, LAWRENCE W. MEDLIN, the defendant herein, did unlawfully, knowingly and wilfully offer, promise, and agree to pay money, thing of value, and a bribe, to wit: ten thousand dollars, to James C. Tippens, who then was, and was then and there known to LAWRENCE W. MEDLIN, the defendant herein, to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with intent to influence the action, vote, opinion, and decision of James C. Tippens in the said trial.

(Title 18, United States Code, Section 206.)

COUNT TWO

The Grand Jury further charges:

That on or about October 23, 1962, in the Middle District of Tennessee, Nashville Division, LAWRENCE W. MEDLIN,

the defendant herein, did unlawfully, knowingly, wilfully, and corruptly endeavor to influence and impede a petit juror of the United States District Court in the discharge of his duty, to wit: James C. Tippens, who then was, and was then and there known to LAWRENCE W. MEDLIN, the defendant herein, to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

(Title 18, United States Code, Section 1503.)

11b

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

- - - - - - - - - - - - - - - - -

UNITED STATES OF AMERICA
Plaintiff

v. Criminal No._____

ALBERT P. COLE
HERMAN A. FRAZIER
ALFRED N. PADEN
Defendants

- - - - - - - - - - - - - - - - -

COUNT ONE

The Grand Jury charges:

1. That from October 1, 1962, up to and including October 23, 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, ALBERT P. COLE, HERMAN A. FRAZIER, and ALFRED N. PADEN, defendants herein, and diverse other persons whose names to the Grand Jury are unknown, did unlawfully, wilfully and knowingly conspire, combine, confederate, and agree to commit an offense against the United States, to wit: to violate Title 18, United States Code, Section 1503, in that the said defendants and co-conspirators did combine, conspire, confederate, and agree corruptly to endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division.

2. That it was part of said conspiracy to communicate with persons who, as the said defendants and co-conspirators then and there well knew, had theretofore been summoned to report on October 22, 1962, for jury service on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, and, by false

representations, to obtain from the said prospective petit jurors information as to the feelings and opinions of the said prospective petit jurors concerning the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), which case was set for trial in the United States District Court for the Middle District of Tennessee, Nashville Division, on October 22, 1962.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the said defendants and co-conspirators in the Middle District of Tennessee, Nashville Division, did commit, among others, the following overt acts:

1. On or about October 21, 1962, ALBERT P. COLE, HERMAN A. FRAZIER, and ALFRED N. PADEN, defendants herein, registered and took rooms at the Noel Hotel in Nashville, Tennessee.

2. On or about October 21, 1962, HERMAN A. FRAZIER, a defendant herein, made a telephone call to William B. Morgan, a prospective petit juror in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

3. On or about October 21, 1962, HERMAN A. FRAZIER, a defendant herein, made a telephone call to Nick Stuart, Jr., a prospective petit juror in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

4. On or about October 21, 1962, HERMAN A. FRAZIER, a defendant herein, made a telephone call to Mrs. Irene Smith, a prospective juror in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

5. On or about October 21, 1962, ALFRED N. PADEN, a defendant herein, made a telephone call to Mrs. J. B. Branham, a prospective petit juror in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241).

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

That on or about October 21, 1962, in the Middle District of Tennessee, Nashville Division, ALBERT P. COLE, HERMAN A. FRAZIER, and ALFRED N. PADEN, defendants herein, did unlawfully, knowingly, wilfully and corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division, in that the said defendants did unlawfully, wilfully, knowingly and corruptly communicate by telephone with Mrs. J. B. Branham, W. E. Erranton, William B. Morgan, Mrs. Lillian Roberts, Nick Stuart, Jr., Mrs. Carr Payne, Mrs. D. M. Harrison, Jr., Mrs. Fred Graves, Mrs. Irene Smith, and Mrs. Leonard McGugin, and others whose names to the Grand Jury are unknown, all of whom, as the said defendants then and there well knew, had been summoned for jury service on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division,

and did endeavor to obtain from the said prospective petit jurors, by false representations, information as to the feelings and opinions of the said prospective petit jurors concerning the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), which was set for trial on October 22, 1962.

(Title 18, United States Code, Section 1503)

11c

UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA Plaintiff	
v.	Criminal No._____
ALLEN DORFMAN JAMES R. HOFFA NICHOLAS J. TWEEL EWING KING Defendants	

COUNT ONE

The Grand Jury charges:

1. That from on or about September 1, 1962, up to an including December 22, 1962, in the Middle District of Tennessee, Nashville Division, and elsewhere, ALLEN DORFMAN, JAMES R. HOFFA, and NICHOLAS J. TWEEL, defendants herein, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree together, and with diverse other persons whose names to the Grand Jury are unknown, to commit offenses against the United States, to wit: to violate Title 18, United States Code, Section 1503, in that the said defendants and co-conspirators did combine, conspire, confederate and agree together corruptly to endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division.

2. That it was part of said conspiracy corruptly to cause unauthorized communications to be made with petit

jurors who, on October 25, 1962, had been impaneled in the United States District Court for the Middle District of Tennessee, Nashville Division, in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with respect to the said jurors' actions, votes, opinions and decisions concerning the said trial before the return of the verdict.

3. That it was a further part of said conspiracy to learn the identity of persons who were acquainted with petit jurors who, on October 25, 1962, had been impaneled in the said case, and of persons who could, by communication with the said petit jurors, influence, intimidate and impede the said petit jurors in the discharge of their duties in the said case.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the said defendants and co-conspirators committed, among others, the following overt acts:

1. On or about October 21, 1962, in the Middle District of Tennessee, Nashville Division, NICHOLAS J. TWEEL, a defendant herein, registered at and took a room in the Andrew Jackson Hotel in Nashville, Tennessee.

2. On or about October 22, 1962, in the Middle District of Tennessee, Nashville Division, NICHOLAS J. TWEEL, a defendant herein, had a conversation with Dallas Hall.

3. In or about the month of November 1962, in the Southern District of West Virginia, NICHOLAS J. TWEEL, a defendant herein, made a telephone call to Dallas Hall, who

was then within the Middle District of Tennessee, Nashville Division.

4. On or about November 27, 1962, in the Middle District of Tennessee, Nashville Division, ALLEN DORFMAN and JAMES R. HOFFA, defendants herein, entered the Louisville and Nashville Railroad Union Station located at Tenth Street and Broadway in Nashville, Tennessee.

5. On or about November 27, 1962, in the Southern District of West Virginia, NICHOLAS J. TWEEL, a defendant herein, made a telephone call to Dallas Hall, who was then within the Middle District of Tennessee, Nashville Division. (Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

That on or about November 27, 1962, in the Southern District of West Virginia and in the Middle District of Tennessee, Nashville Division, ALLEN DORFMAN, JAMES R. HOFFA and NICHOLAS J. TWEEL, defendants herein, did unlawfully, knowingly, wilfully and corruptly endeavor to influence, obstruct and impede the due administration of justice in the United States District Court for the Middle District of Tennessee, Nashville Division, in that the said defendants did offer a thing of value [and a bribe] to Dallas Hall for the purpose of causing the said Dallas Hall to learn the identity of persons who could communicate with petit jurors theretofore impaneled in the United States District Court for the Middle District of Tennessee, Nashville Division, in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), with respect to the said jurors' actions, votes,

opinions and decisions concerning the said trial before the return of the verdict.

(Title 18, United States Code, Section 1503.)

COUNT THREE

The Grand Jury further charges:

1. That from on or about September 1, 1962, up to and including December 6, 1962, in the Middle District of Tennessee, Nashville Division, JAMES R. HOFFA and EWING KING, defendants herein, and George Broda, Oscar V. Pitts, Paul B. Tenpenny, and Robert Wilkerson, co-conspirators but not defendants herein, did unlawfully, wilfully, and knowingly combine, conspire, confederate and agree together, and with diverse other persons whose names to the Grand Jury are unknown, to commit offenses against the United States, to wit: to violate Title 18, United States Code, Section 1503, in that the said defendants and co-conspirators did combine, conspire, confederate and agree corruptly to endeavor to influence, intimidate and impede a petit juror of the United States District Court for the Middle District of Tennessee, Nashville Division, in the discharge of her duty.

2. That it was part of said conspiracy corruptly to endeavor to influence, intimidate and impede, in the discharge of her duty as a petit juror of the United States District Court, Mrs. James M. Paschal, who on or about October 25, 1962, was sworn as Regular Juror Number 9 for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in the United States District Court for the Middle District of Tennessee, Nashville Division, as the said defendants and co-conspirators then and there well knew.

3. That it was further part of said conspiracy that EWING KING, a defendant herein, meet with James M. Paschal, the husband of the said Mrs. James M. Paschal, and that the said EWING KING offer to James M. Paschal a thing of value and a bribe for the purpose of causing said James M. Paschal to influence, intimidate and impede the said Mrs. James M. Paschal in the discharge of her duty as a petit juror.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the said defendants and co-conspirators in the Middle District of Tennessee, Nashville Division, committed, among others, the following overt acts:

1. On or about October 27, 1962, EWING KING, a defendant herein, drove to the residence of Oscar V. Pitts, a co-conspirator but not a defendant herein, which is located in or around Woodbury, Tennessee.

2. On or about November 6, 1962, EWING KING, a defendant herein, had a conversation with Paul B. Tenpenny, a co-conspirator but not a defendant herein.

3. On or about November 17, 1962, EWING KING, a defendant herein, and George Broda, a co-conspirator but not a defendant herein, exchanged automobiles with each other.

4. On or about November 18, 1962, Oscar V. Pitts, a co-conspirator but not a defendant herein, drove to the home of James M. Paschal in Woodbury, Tennessee, in an automobile belonging to George Broda, a co-conspirator but not a defendant herein.

5. On or about November 18, 1962, in the vicinity of Woodbury, Tennessee, EWING KING, a defendant herein, met James M. Paschal, the husband of Mrs. James M. Paschal, and had a conversation with the said James M. Paschal.
(Title 18, United States Code, Section 371.)

COUNT FOUR

The Grand Jury further charges:

1. That on or about November 18, 1962, in the Middle District of Tennessee, Nashville Division, JAMES R. HOFFA and EWING KING, defendants herein, did unlawfully, knowingly and corruptly endeavor to influence, intimidate and impede a petit juror of the United States District Court in the discharge of her duty, to wit: Mrs. James M. Paschal who, then was, and was then and there known to the said defendants to be, serving as a petit juror in the case of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in that the said EWING KING, a defendant herein, did meet with James M. Paschal, the husband of the said Mrs. James M. Paschal, and did offer to James M. Paschal a thing of value and a bribe for the purpose of causing said James M. Paschal to influence, intimidate and impede the said Mrs. James M. Paschal in the discharge of her duty as a petit juror.

2. That in or about the months of October and November 1962, in the Middle District of Tennessee, Nashville Division, JAMES R. HOFFA, a defendant herein, did unlawfully, knowingly, wilfully and corruptly aid, abet, counsel, command

induce and procure the said EWING KING, a defendant herein, corruptly to endeavor to influence, intimidate and impede the said Mrs. James M. Paschal who then was and was known to the said JAMES R. HOFFA to be, on the petit jury venire of the United States District Court for the Middle District of Tennessee, Nashville Division, from which petit jurors were to be selected for the trial of United States v. James R. Hoffa and Commercial Carriers, Inc. (Criminal No. 13,241), in the discharge of her duty with respect to the said trial. (Title 18, United States Code, Sections 2 and 1503.)