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File Folder JGR/BAHAMAS DRUG INVESTIGATION

FOIA

F05-139/01

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DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	LETTER	F. LEE BAILEY TO JAMES BAKER RE PRIME MINISTER OF BAHAMAS	7	6/18/1984	B6	448

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

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Criminal Division

- Royal Comm

Typed: 6/15/84

Deputy Assistant Attorney General

Washington, D.C. 20530

June 15, 1984

Honorable Robert Ellicott
Counsel, Royal Commission
of Inquiry
Boulevard Building
Thompson Boulevard
Oaksfield, Nassau, Bahamas

Records
Bahamas Investiga-
tive File No. 1
Section Chron
Knapp Chron
White (OIA)
Blau (NDD)
Peay (State Dept.)
Caffrey (DEA)
Gregorie (USA's-
Miami)

Dear Mr. Ellicott:

✓ Jay Stephens (Assoc.AG's)

You have requested that I summarize for you the extent of United States cooperation with, and assistance to, the Bahamian Royal Commission of Inquiry to date, and specifically by reference to the items of information requested in Note 422 dated December 2, 1983, from the Bahamian Ministry of Foreign Affairs and by further reference to specific matters requested by you in our two direct meetings and the telephone conversations you have had with Mr. White. I am pleased to do so.

We understand the goals of the Commission to be twofold: (1) the investigation of charges or rumors of corruption by top Bahamian Government officials to facilitate drug trafficking in the Bahamas and a determination of their validity, and (2) an evaluation of existing Bahamian efforts to suppress drug trafficking and a determination of ways these efforts can be improved.

We have strongly supported the work of the Commission from the outset. Your work is critical, not simply to the future of the Bahamas but to the future of the United States and our relations. Our two countries must cooperate closely and effectively in the suppression of drug trafficking and the prosecution of drug traffickers. Consequently, we have cooperated with the Commission to the maximum extent permissible under United States law.

Most of the requests for information on specific matters in the original diplomatic note are couched in the form of requesting copies of particular statements. There are serious problems in complying with these requests in this form. First, these requests assume we have such statements when we may not. We cannot selectively deny the existence of certain statements without implicitly confirming the existence of others. Second, the requests require the disclosure of internal investigative agency reports—something which is not permitted under United States law

as a general rule except in the context of specific litigation in a United States judicial proceeding. Third, many of these reports simply mention or record unsubstantiated allegations without any evaluation of their validity. Their public acknowledgment by a United States Government agency would be seriously unfair to the individuals mentioned without being of significant value to the Commission. I might add that in drug trafficking it is common for traffickers to boast of their influence with public officials when in fact they have none. It is regrettable when such allegations become public and accepted as true by those who are unaware of this tendency.

What we have done is: (1) through our direct³ contact provide as fully as we lawfully may all information we have which can assist you in your evaluation of specific charges, and (2) most important, facilitate and encourage the testimony of any witness who we learn could provide evidence pertinent to your specific inquiries. We have supplied you with all the information we have concerning allegations of corruption, subject only to the following limitations. We cannot disclose information which we are prohibited from disclosing by law, most typically Federal Rule 6(e) concerning the disclosure of Grand Jury testimony. We cannot disclose information in a form that would prejudice a defendant's right to a fair trial in the United States. We cannot breach faith with a confidential informant or risk his security, though we could, as appropriate, encourage his direct cooperation or try to ascertain an alternate way to provide pertinent information to you. While I cannot fully describe all our efforts in this regard, I want to assure you that we are being as forthcoming as possible and that our efforts have indeed been extensive.

In reference to the second goal of the Commission, I want to emphasize that cooperation has been good between the Bahamas and the United States, particularly in Operation Bat. There are ways overall cooperation can be strengthened as discussed in my earlier letter to you on this subject. Perhaps the Commission can do its greatest work by identifying ways to strengthen this cooperation and improve law enforcement and prosecution techniques and capacities.

I will now comment on the specific items on which you requested assistance.

Item 1:

(A) Evidence and information as to past cooperation between the Bahamas and the United States re drug trafficking through the Bahamas; (B) further ways in which that cooperation may be strengthened; (C) law enforcement procedures used in the United States re drug trafficking that could be used in the Bahamas; (D) bail procedures used in the United States Courts; (E) penalties imposed by Federal Courts.

Response:

I wrote you a lengthy letter dated February 28, 1984, on this subject and attached exhibits. In addition, you have the testimony referred to in response to Item 4 below, especially that of Mr. Monastero and Mr. Gruden. At your specific request, we have also made available Peter Gruden, the head of the DEA Office in Miami, to testify before the Commission on Items 1A, 1B, and 1C.

You have requested further clarification of comments made in my original letter on the handling of letters rogatory since our meeting with Attorney General Adderley in December. On December 6, 1983, the United States Government asked the Bahamian Supreme Court for aid in obtaining records from seven Bahamian banks, records needed as evidence in three criminal cases (one a fraud case, one a narcotics case, and one a bribery case) pending before United States Courts. On December 12, 1983, the Bahamian Supreme Court ordered the banks to produce the needed records pursuant to the Foreign Tribunals Evidence Act and the Banks and Trust Companies Regulation Act. However, the Bahamian Attorney General's Office successfully persuaded the Court to stay its own order. The Attorney General told the Court that discussions between the United States and the Government of the Bahamas on judicial matters were imminent, and that talks on the "proper" procedure to be followed in applications for bank records would be made part of those discussions.

Those discussions took place the week of December 19, 1983. During those discussions, Attorney General Adderley proposed that the United States Department of Justice and he agree on procedures to be followed in processing requests to Bahamian courts for access to bank records. The Attorney General suggested that

in each case the United States should retain private counsel and apply to the Supreme Court of the Bahamas for an order solely under Section 10 of the Banks and Trust Companies Regulations Act. He explained that this order would permit the bank to produce the records, but not require it. This order would give the bank immunity from prosecution should it release the needed records to United States authorities. He also indicated that, should further action prove necessary, the Bahamian Government itself would, upon our request, obtain the necessary compulsory order and secure the production of the records under the Foreign Tribunals Evidence Act. He indicated that the evidence sought in the three applications then pending before the Bahamian Supreme Court should be available by the end of January, 1984.

We agreed to follow this procedure and directed our legal counsel to ask the Bahamian Supreme Court to amend its December 12, 1983, order to conform to the Attorney General's suggestions. The Bahamian Supreme Court issued this amended order on January 20, 1984. A representative of the Bahamian Attorney General's Office was present when the new order was issued and expressed the Bahamian Government's satisfaction with its terms.

Since that time, only one of the three cases has been resolved. Five of the banks covered by the order have turned over all of the records sought. One bank, the Swiss Bank Corporation, has simply refused to produce the records needed in the major narcotics case unless it is "ordered," not invited, to do so. Another bank, the Royal Bank of Canada, produced some of the records sought from it pursuant to the permissive orders, but has refused to produce evidence crucial to the resolution of the bribery case because the accountholder has sued it for an order blocking such production. The accountholder, like the Swiss Bank Corporation, argues that the bank has no power to produce records unless it is ordered to do so. It should not be difficult to see why United States prosecutors and investigators who need Bahamian bank records are impatient with the letters rogatory process. We will have to seek the Attorney General's help now to require production.

Another troubling development occurred recently when the Bahamian Supreme Court entered an order forbidding the Bank of Nova Scotia "or its agents"

from providing testimony, documents, or other information for the trial in Florida of Robert Twist, an alleged major narcotics dealer. This matter illustrates the overall problem of United States prosecutors obtaining critical business records, particularly pre-indictment, and further demonstrates the need for a mutual assistance treaty.

Finally, you have requested that we comment upon the testimony of Oris Stanley Russell, former Permanent Secretary of the Bahamian Ministry of External Affairs. DEA, at my request, has engaged in a comprehensive review of that testimony, including consultation with its former country attache. At the conclusion of that review, I was informed by DEA Acting Deputy Administrator John C. Lawn that Mr. Russell's statements were factual and accurate. Virtually all of the correspondence alluded to by Mr. Russell in his testimony was provided by the former attache.

Item 2:

Copies of statements taken and of all Court documents relating to charges laid against "Sammy" Miller, John Rolle, and "Life" Curtis in the Southern District of Florida.

Response:

The Commission now has been fully informed of the nature of all the evidence and other information pertinent to this case. The key prosecution witness, Garcia, has testified to the Commission with our assistance. The Commission has transcripts of the Miller-Rolle trial and any investigative reports which were lawfully made public as part of the trial process. The Commission has also had the opportunity to view the videotapes of the various undercover transactions. There is no evidence pertinent to this case of which the Commission is unaware.

You requested that I comment upon insinuations that the investigation which led to this trial was somehow or other motivated by a desire to discredit Bahamian officials or authenticate charges of corruption in an NBC news story. Any such insinuations are wrong. The investigation concerning the prosecution of Samuel Miller and John Rolle for conspiracy to import cocaine was begun as a result of information provided by Luis Garcia, aka "Kojak." In the Summer of 1983,

Kojak informed DEA Agents Spence and Francar that he had received calls from Samuel Miller who claimed to be an influential Bahamian. Miller was attempting to sell his influence to get Kojak off the Bahamian "stop list." In late September of 1983, Kojak invited two DEA agents acting in an undercover capacity to meet Samuel Miller and to listen to what Miller had to say concerning his political influence in the Bahamas. At this initial meeting, Miller refused to discuss with any specificity in the presence of the undercover agents what he wished to sell Kojak. However, once alone with Kojak, he offered to sell protection for the use of Great Whale Cay, an island in the Bahamas chain, for the purpose of importing drugs into the United States. Thereafter, DEA agents set up video and audio recording equipment to record conversations with Miller and his associates during subsequent meetings on the importation of approximately 900 pounds of cocaine. All the meetings occurred in Miami.

At no time during the investigation of this case was there any contact between any of the investigators and any news agency regarding Samuel Miller or this investigation. Prior news reports concerning alleged corruption in the Bahamas did become a subject of discussion between Miller and the undercover agents. Special Agent Gene Francar denied in his testimony that there was any relationship between these news reports and the actual conduct of the investigation. The news reports were in no way a motivation for the investigation of Miller and Rolle. It would only be natural, I might add, for such reports to become part of a conversation involving someone who was claiming to be able to bribe key Bahamian officials. In addition, Agent Francar testified that in his conversations with Miller he brought up the fact that a considerable amount of publicity was being given to the Royal Commission's activities and that perhaps that publicity might make it difficult to conduct illicit activities. Miller's response was to the effect that only those with political influence were willing to conduct illegal activities during this period. A Commission representative has interviewed Rolle who may have provided additional information to you on this matter.

Item 3:

Copies of statements supplied by Hindelang and Pegg to DEA and other United States agencies on alleged taking of bribes of Bahamian officials or their involvement in drug trafficking in the Bahamas.

Response:

The Department of Justice has made its best efforts to secure the cooperation of Mr. Hindelang and have him testify before the Commission, as you know. Our latest information is that Mr. Hindelang will now testify. We had made no specific efforts to secure Mr. Pegg's cooperation since we were never led to believe that he would cooperate. We understand now that he may be willing to talk to you.

Item 4:

Copies of any statements supplied by DEA and other United States agencies to the House Foreign Affairs Committee Task Force regarding alleged bribes of Bahamian officials.

Response:

By letter to you dated January 10, 1984, Mr. White sent you copies of the following formal statements submitted to the Task Force:

- (1) Frank Monastero, Assistant Director for Operations;
- (2) Dominick DiCarlo, Assistant Secretary of State;
- (3) Rear Admiral Donald Thompson, U. S. Coast Guard;
- (4) Philip T. White, Director, Office of International Affairs, Criminal Division
- (5) Senator Dennis DeConcini; and
- (6) Congressman Glenn English.

Philip White also sent you by letter January 17, 1984, the following documents:

- (1) Memorandum for the Record dated February 18, 1983;
- (2) Background Paper - Bahamas 1979-1981;
- (3) Background Statement, Latin American Policies and Programs, Bureau of International Narcotics Matters, Department of State, October 12, 1983;
- (4) Letter dated October 18, 1983, to Congressman Feighan from Assistant Secretary of State Dominick DiCarlo; and
- (5) Statement of Peter Gruden, Drug Enforcement Administration, before House Select Committee on Narcotics Abuse and Control, October 12, 1983, West Palm Beach, Florida.

Item 5: Copy of transcript record of the proceedings of the Congressional Task Force to date.

Response: We have been informed by the staff of the House Committee Task Force that the official transcript of the testimony of the various witnesses has not yet been prepared and is thus not yet available for dissemination.

Item 6: Copy of DEA dossier or other evidence or information on Bahamian attorney Nigel Bowe.

Response: We have furnished you the identity of two informant witnesses who have information on the subject of Nigel Bowe. You have had the opportunity to debrief these individuals. We have actively encouraged their testimony before the Commission. However, one is unwilling to testify at the present time and the other you have chosen not to use for the time being. In addition, an FBI agent with direct evidence has testified before the Commission. Two other witnesses whose testimony we secured for the Commission have provided some information on this subject. You are, I believe, aware of the identity of all subjects we presently know who have or could have some information on this subject.

DEA does not keep or maintain "dossiers" on individuals. DEA does keep records under subject names whenever it receives information, true or false, corroborated or uncorroborated, direct or hearsay, as part of its intelligence gathering process. You inquired about, and asked me to comment upon, an alleged example of such a record known as a NADDIS printout concerning this subject which apparently was unlawfully made public. DEA has responded to you under separate cover on this particular issue and answered the specific questions you gave me. I want to emphasize, however, that we have disclosed to you all information on this subject which we properly may.

Item 7:

Copy of statements made by Michael Yamanis and Constantine Yamanis regarding alleged bribery of Bahamian officials and involvement in drug trafficking in the Bahamas.

Response:

We have no reason to believe either individual has evidence on the aforementioned matter. You of course are free to contact their attorneys to seek an interview.

Item 8:

Copies of statements, affidavits, information, etc., in the possession of the United States Government regarding the use of Gorda Cay, Darby Islands, and Norman's Cay for transshipment of drugs to the United States.

Response:

Norman's Cay

The alleged use of this island for the illegal transshipment of drugs has been the subject of considerable publicity as you know. There was a seizure of 417 pounds of cocaine on the island on October 10, 1981, which resulted in the arrest of two Colombian nationals by Bahamian authorities. We facilitated the Commission receiving the testimony of two witnesses who have testified concerning unlawful smuggling activities on this island and you are aware of a third who could.

Gorda Cay

On July 3, 1983, an estimated 865 pounds of cocaine was seized aboard a Cessna aircraft here. One Colombian national was arrested; another escaped.

On March 17, 1982, a pilot flew two million quaalude tablets from Gorda Cay into Frank Barber's private field in Delray Beach, Florida. You have had the opportunity to interview Mr. Barber concerning his activities.

Darby Islands

I understand a United States defendant by the name of Chester has testified before the Commission on this subject. Because of a pending case here, we are not in a position at this time to comment on his testimony.

Item 9: Copies of statements, documents, information, etc., in possession of the United States Government re alleged bribery of Bahamian officials in drug trafficking, etc.

Response: In addition to the information supplied in reference to Items 2, 3, and 6, we have obtained for the Commission the testimony of five witnesses who have testified on this subject. We also have made arrangements for you to speak with other witnesses as requested and have transported prisoner-witnesses to Miami or other locations for interviews. There is also the possibility that one or more additional witnesses may be available and willing to testify in the coming two weeks. Subject to the general qualification set forth at the beginning of this letter, we have disclosed to you all information we have on this subject.

As to any and all non-United States Government witnesses who have testified to the Commission, I want to make clear that we are not necessarily endorsing the truth of their testimony simply because we have encouraged or otherwise facilitated such testimony. We are encouraging individual testimony only because you have specifically requested that witness and/or because the Government of the Bahamas, pursuant to this item in its Diplomatic Note, has requested we make you aware of any information on this subject matter which comes to our attention.

Item 10: Copies of any statements, documents, information, etc., re alleged activities of Robert Vesco or Carlos Lehder in the Bahamas from 1970 to date connecting them with drug trafficking through the Bahamas.

Response: Both of these individuals are United States fugitives whom we are actively seeking. Public disclosure of confidential information concerning them could prejudice future trials here in the United States. We understand that you are already aware of the identity of several witnesses who can provide direct or indirect evidence concerning their alleged activities in the Bahamas. Three witnesses whose testimony we helped facilitate have already provided you information on one or the other of the two subjects.

Item 11: Copies of affidavits tendered and of address to the Court by the U. S. Attorney in Brownsville, Texas, proceedings relating to machinery exports to Cuba concerning the present whereabouts of Vesco.

Response: Inquiry of the United States Attorney's Office has revealed that at some point in the trial of the above case the United States Attorney made a statement in open court to the effect that Vesco was involved in exports to Cuba. This was the subject of a news report which we have provided you. The United States Attorney's Office in Brownsville assures us that there are no additional affidavits or statements to the Court by the United States Attorney on this matter.

Item 12: Estimates made by United States agencies of percentages of and nature of various drugs going into the United States through the Bahamas.

Response: The Drug Enforcement Administration estimates that between 10 and 15 percent of all cocaine and between 10 and 25 percent of all marijuana entering the United States annually transit the Bahamas. This 25-percent figure for marijuana represents the maximum estimate believed to pass through the Bahamas. The drugs transiting the Bahamas are being transported by maritime vessels and/or aircraft.

The DEA Office in Miami has publicly indicated that a large portion of the cocaine and marijuana made available to consumers solely within the state of Florida is estimated to have been transshipped through the Bahamas.

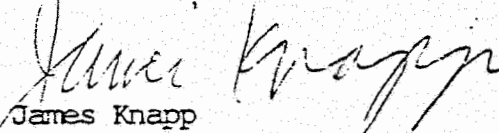
Item 13: Information as to whether the FBI or any other United States Government agency had set up entrapment procedures in relation to Mr. Kendal Nottage and whether the United States Ambassador to the Bahamas stopped it.

Response:

The United States has previously responded to this inquiry in a November, 1983, State Department Diplomatic Note delivered to External Affairs Minister Adderley in response to Diplomatic Notes 287A and 287B dated September 9, 1983. Similarly, Attorney General Smith discussed this matter in a letter to Minister Adderley dated December 13, 1983. You have copies of these items. Neither the FBI or any other United States Government agency has ever set up entrapment procedures in relation to Mr. Kendal Nottage.

I trust this letter has adequately summarized for you our assistance to the Commission to date. We will continue to cooperate with the Commission in any way we properly may.

Sincerely,



James Knapp
Deputy Assistant Attorney General
Criminal Division

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1 LETTER

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F. LEE BAILEY TO JAMES BAKER RE PRIME
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Payments to Premier Of Bahamas Reported

MIAMI, June 23 (AP) — Prime Minister Lynden O. Pindling received at least \$533,000 in the last four years from a prominent Bahamian businessman who is being investigated for alleged influence-peddling on behalf of American drug smugglers, a published report says.

Everette Bannister, a friend and political ally of Mr. Pindling, testified Friday before the Royal Commission of Inquiry in Nassau that he made those payments out of a sense of obligation and friendship, The Miami Herald reported in its Saturday issue.

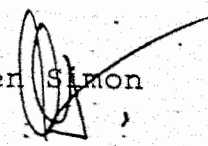
Mr. Pindling's lawyer, F. Lee Bailey, conceded that the Prime Minister had received and deposited a number of bank drafts from Mr. Bannister but said there was nothing improper about the transactions.

William Kalis, a Bahamian government spokesman, has told The Associated Press that anyone named in testimony or who appeared before the commission was prohibited from commenting publicly on the case.

Jay:

Here is the New York Times
article from yesterday.

Ken Simon



6/25/85