

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 3-25-88 BY SP-7/TA/CC

September 19, 1977

FEDERAL GOVERNMENT

Honorable Gary Hart  
United States Senate  
Washington, D. C. 20510

Dear Senator Hart:

Your communication of September 6th addressed to Special Agent Daly enclosing a letter from [redacted] has been received.

b7C

Pursuant to Federal search warrants authorized by the appropriate United States Attorneys and issued by United States Magistrates, the FBI searched properties of the Church of Scientology in Washington, D. C., and the Los Angeles area in July, 1977. The search warrants were issued for the purpose of recovering stolen Government property and to obtain evidence of other violations of Federal law. This Department's investigation of alleged violations of criminal statutes is continuing.

On July 27, 1977, Chief United States District Judge William B. Bryant, United States District Court, Washington, D. C., ruled that the search warrant in question amounted to a "general warrant," and thus, violated the guarantee of the Fourth Amendment of the United States Constitution against unreasonable searches and seizures.

On August 22, 1977, the Solicitor General of the United States authorized the United States Attorney, Washington, D. C., to enter an appeal in the United States Court of Appeals for the District of Columbia. This appeal will be based in part on the recent decision of the United States Supreme Court in Andresen vs Maryland 427 U.S. 463.

LETTER CONTINUED AND NOTE ON PAGE TWO

2 SEP 21 1977

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SEP 19 1977  
FBI

- Assoc. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Adm. Serv. \_\_\_\_\_ (5)
- Crim. Inv. \_\_\_\_\_
- Fin. & Pers. \_\_\_\_\_
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- Legal Coun. \_\_\_\_\_
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- Public Affs. Off. \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director's Sec'y \_\_\_\_\_

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b7C

DE-58  
EX-114  
REC-29  
47-56

237  
50 OCT 4 1977

TELETYPE UNIT

JW/S  
C.W. FBI/D

Honorable Gary Hart

I am certain you appreciate that further comment on this matter would be inappropriate in view of our continuing investigation and the pendency of the search and seizure issue in the United States Court of Appeals.

As you requested, your enclosure is being returned.

Sincerely yours,

C M Kelley

Clarence M. Kelley  
Director

Enclosure

- 1 - Denver - Enclosures (2)
- 1 - Office of Congressional Affairs - Enclosures (2)
- 1 - General Government and Crimes Unit - Enclosures (2)
- ① - 47-56689 (SITOL)

NOTE: Bufiles contain no identifiable information regarding

[REDACTED]

b7C

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| Director _____                                | Crim. Inv. _____   | Plan. & Insp. _____     |
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SEP 18 1973

HOUSE OF REPRESENTATIVES, U.S.  
WASHINGTON, D. C.

September 14, 1977

Federal Bureau of Investigation  
Office of Congressional Affairs  
10th & Pennsylvania Avenue, N.W.  
Washington, D.C. 20535

FEDERAL GOVERNMENT

The attached communication is submitted for your consideration, and to ask that the request made therein be complied with, if possible.

If you will advise me of your action in this matter and have the letter returned to me with your reply, I will appreciate it.

V-71

ALL INFO CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 3-2-82 BY SP7MPC/ep

EXP. PROC.  
34 SEP 15 1977

ST-10!

REC 12

Very truly yours,

ENCLOSURE

Edwin B. Forsythe

M.C.

Sixth  
New Jersey District.

EBF:csb

71-5113-229  
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CORRESPONDENCE

|                   |       |
|-------------------|-------|
| Assoc. Dir.       | _____ |
| Dep. AD Adm.      | _____ |
| Dep. AD Inv.      | _____ |
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| Public Affs. Off. | _____ |
| Telephone Rm.     | _____ |
| Director's Sec'y  | _____ |

b7c

[REDACTED]

[REDACTED]

The Honorable Edwin B. Forsythe  
P.O. Box 128  
Moorestown, New Jersey 08057

Dear Congressman Forsythe,

I am writing to you to ask your help with what is going on these days that is endangering the religious freedom of this country. Recently in different states, Pennsylvania for one, there have been attempts to make "deprogramming" legal and freedom of religion illegal. In various states, including California, false use of conservatorships has allowed parents and relatives to disenfranchise adult children, so that renegades can, with legal sanction, force these adults to renounce their religions through force.

Also recently, a Church of Scientology was broken into in order to suppress it by the FBI. Things are in a sorry state when government attacks religion.

In the past you have appeared to me to be a man of perception and genuine caring about our country, so I have voted for you. Now please do whatever you can to defend the First Amendment of the Constitution leaving it inviolate.

b7c Very truly yours,

[REDACTED]

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 3-25-80 BY SP2 JPC/AL

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ENCLOSURE

AUG 8 1977

September 20, 1977

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED

DATE 3-25-80 BY SP7AP/CLL

Honorable Edwin B. Forsythe  
House of Representatives  
Washington, D. C. 20515

FEDERAL GOVERNMENT

Dear Congressman Forsythe:

Your communication of September 14th enclosing a copy of a letter from [redacted] has been received. We also received a similar inquiry from Senator Case's Office.

As I advised Senator Case, pursuant to Federal search warrants authorized by the appropriate United States Attorneys and issued by United States Magistrates, the FBI searched properties of the Church of Scientology in Washington, D. C., and the Los Angeles area in July, 1977. The search warrants were issued for the purpose of recovering stolen Government property and to obtain evidence of other violations of Federal law. The Department's investigation of alleged violations of criminal statutes is continuing.

On July 27, 1977, Chief United States District Judge William B. Bryant, United States District Court, Washington, D. C., ruled that the search warrant in question amounted to a "general warrant" and, thus, violated the guarantee of the Fourth Amendment of the United States Constitution against unreasonable searches and seizures.

On August 22, 1977, the Solicitor General of the United States authorized the United States Attorney, Washington, D. C., to enter an appeal in the United States Court of Appeals for the District of Columbia. This appeal will be based in part on the recent decision of the United States Supreme Court in *Andresen vs. Maryland*, 427 U.S. 463.

- Assoc. Dir. \_\_\_\_\_
- Dep. AD Adm. \_\_\_\_\_
- Dep. AD Inv. \_\_\_\_\_
- Asst. Dir.:
- Adm. Serv. \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
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- Director's Sec'y \_\_\_\_\_

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SEP 20 1977

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CONTINUED ON PAGE 2

REC 12

47-5607-230

SEP 22 1977

MAIL ROOM

TELETYPE UNIT

Honorable Edwin B. Forsythe

I am certain you appreciate that further comment on this matter would be inappropriate in view of continuing investigation and the pendency of the search and seizure issue in the United States Court of Appeals.

As you requested, I am returning your enclosure.

Sincerely yours,

C M Kelley

Clarence M. Kelley  
Director

Enclosure

1 - Newark - Enclosures (2)

1 - Office of Congressional Affairs - Enclosures (2)

NOTE: Bufiles reflect that Senator Case made a similar request, enclosing a letter from [redacted] and was furnished the above reply by letter September 9, 1977. b7C

APPROVED: *[Signature]*

Director

Asso. Dir.

Dep. AD Adm.

Dep. AD Inv.

Adm. Serv.

Crim. Inv.

Fin. & Pers.

Ident.

Intell.

Laboratory

Legal Coun.

Plan. & Insp.

Rec. Mgmt.

Spec. Inv.

Tech. Servs.

Training

Public Affs. Off.

ORIGINAL

ROUTE IN ENVELOPE

FILED

SEP 12 1977

CLERK, U. S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY CLERK

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
VARIOUS DOCUMENTS SEIZED )  
FROM THE CHURCH OF )  
SCIENTOLOGY OF CALIFORNIA, )  
AND CEDARS-SINAI COMPLEX. )  
 )  
Defendant, )  
 )  
CHURCH OF SCIENTOLOGY OF )  
CALIFORNIA, )  
 )  
Moving Party. )

NO. CV-77-2565-MML

ORDER RE FBI INTERNAL,  
MEMORANDA

The Government seeks an exception to this Court's Order of August 8,  
1977, which would permit the FBI to retain certain internal FBI memoranda  
containing information garnered from documents held to have been seized from  
the Church of Scientology of California (hereinafter "Church" or "Church of  
Scientology") in contravention of the Fourth Amendment. The Government main-  
tains that the information in these documents is essential to conducting an  
investigation of alleged "infiltration" of the FBI by the Church. At issue pre-  
sently is whether evidence derived from documents which have been held to have

ST 110 REC-88

SEP 30 1977

b7c SIX - [REDACTED]  
THREE  
ELEVEN

ROUTE IN ENVELOPE

7 9 OCT 12 1977

1 been seized in contravention of the Fourth Amendment should be suppressed  
2 from later use in connection with an FBI review of its personnel.

3  
4 BACKGROUND

5 Following simultaneous searches and seizures conducted by the FBI of  
6 Church property in Washington and Los Angeles on July 8, 1977, the Church  
7 instituted actions in the district courts of both cities, pursuant to Fed. R. Crim. I  
8 41(c), for the restoration of property alleged to have been illegally seized. The  
9 District Court for the District of Columbia, in a Memorandum and Order by  
10 Judge Bryant, held that the search warrant was a "general warrant," and thus  
11 constitutionally infirm. Accordingly, Judge Bryant ordered the Government to  
12 return all the seized property. Following a hearing on August 8, 1977, this  
13 Court ruled that the principle of collateral estoppel precludes further litigation  
14 on the constitutionality of the warrant, and concluded that in this forum, these  
15 parties were bound by Judge Bryant's holding regarding a nearly identical warra.  
16 Accordingly, this Court issued the August 8, 1977 Order, closely paralleling  
17 Judge Bryant's Order, requiring that the Government forthwith return the seized  
18 property and its fruits.

19 The Government and the Church both filed ex parte motions seeking clari-  
20 fication and modifications of this Court's Order of August 8, 1977. Hearings we  
21 held on August 12, 1977, August 18, 1977 and on August 29, 1977 to allow full dis-  
22 cussion on the issues raised and to permit written briefing on the questions pre-  
23 sented. Various issues were resolved at the hearing and the parties were able  
24 to reach agreement upon the terms of an Order which resolved all outstanding  
25 issues except those with respect to the FBI documents here at issue. This sti-  
26 pulated Order was approved by the Court on August 24, 1977. Thus, there  
27 remains in dispute only the documents created by the FBI.

28 The Government has repeatedly represented that the investigation presently  
29 being conducted is non-criminal; its purpose being limited to investigation and  
review of FBI employees who are believed to have breached department standards.



1 or requirements. Clearly, the Court's prior holding, predicated upon the  
2 collateral estoppel effect of Judge Bryant's ruling, precludes the direct use of the  
3 seized documents in any criminal proceeding. Weeks v. United States, 232 U.S.  
4 383 (1914); Mapp v. Ohio, 367 U.S. 643 (1961). Moreover, information gained  
5 from the illegally seized evidence is likewise inadmissible; to use the "time-  
6 worn metaphor," Harrison v. United States, 392 U.S. 219, 222 (1968), such  
7 evidence is "fruit of the poisonous tree." Nardone v. United States, 308 U.S.  
8 338, 341 (1939), Wong Sun v. United States, 371 U.S. 471 (1963). The documents  
9 now at issue, which have been submitted to the Court for in camera inspection,  
10 are the work-product of the FBI agents who are presently conducting an investi-  
11 gation into alleged infiltration of the FBI by the Church of Scientology. Concede  
12 the starting point of the investigation was information culled from the seized  
13 documents. Accordingly, for these purposes, the Court assumes that the FBI  
14 documents here in question are "fruit of the poisonous tree."

15 A further clarification of the nature of the present proceedings is in order.  
16 As the documents presently at issue are the internal correspondence of the FBI,  
17 the Church of Scientology cannot be said to be "entitled to lawful possession" of  
18 these documents. Thus, the instant proceeding is not within the precise terms  
19 of Fed. R. Crim. P. 41(c). Moreover, a motion to suppress evidence appears to  
20 be a post-indictment proceeding. Fed. R. Crim. P. 41(c). Nonetheless, the Court  
21 will consider the substance of the issue presented. Accordingly, the present pro-  
22 ceedings will be treated as a motion to restore to the Church any information,  
23 together with its progeny, taken from the seized documents. Of course, a  
24 determination that property is to be returned, pursuant to Rule 41(c), carries with  
25 it the consequence that the property "shall not be admissible in evidence at  
26 any hearing or trial." Id.

#### 27 ANALYSIS

28 As mentioned, the issue presently before the Court is whether evidence  
29 derived from documents which have been held to have been seized in contravention

1 of the Fourth Amendment should be suppressed from later use in connection with  
2 an FBI review of its personnel. The issue presented is difficult; a thorough  
3 analysis must begin with an examination of the Court's jurisdiction under Rule  
4 41(e) and then consideration must be directed to the exclusionary rule's applica-  
5 tion in civil proceedings.

6 Rule 41(c) and Future Civil Proceedings

7 Federal district courts have discretionary power to order the suppression  
8 or return of unlawfully seized property prior to the return of an indictment.  
9 Go-Bart Co. v. United States, 282 U.S. 344 (1931); Meier v. Keller, 521 F.2d  
10 548 (9th Cir. 1975), cert. denied, 424 U.S. 943 (1976); Hunsucker v. Phinney,  
11 497 F.2d 29 (5th Cir. 1974), cert. denied, 420 U.S. 927 (1975).

12 Recognizing that in most cases this authority is not derived from statutory  
13 grant, Grant v. United States, 282 F.2d 165, 168 (2d Cir. 1960)(Judge Friendly);  
14 and has been termed the Court's "anomalous jurisdiction," Lord v. Kelley, 222  
15 F.Supp. 684 (D. Mass. 1963)(Judge Wyzanski) appeal dismissed, 334 F.2d 742  
16 (1st Cir. 1964), cert. denied 379 U.S. 961 (1965), this authority is said to have  
17 been derived from:

18 "inherent 'supervisory' or 'disciplinary' power over officers  
19 of the court, see, e.g., Centracchio v. Garrity, 1 Cir. 1952,  
20 198 F.2d 382, 385-86; United States v. Maresca, S. D. N. Y.,  
21 1920, 266 F. 713, 717, or as the power of a court '[to] reach  
22 forward to control the improper preparation of evidence which  
23 is to be used in a case coming before it, and . . . by summary  
24 procedure [to] restrain oppressive or unlawful conduct of its own  
25 officers,' Foley v. United States, 5 Cir., 1933, 64 F.2d 1, 3;  
26 In re Fried, 2 Cir., 1947, 161 F.2d 453, 458; Smith v. Katzenbach,  
27 1965, 122 U.S. App. D. C. 113, 351 F.2d 810, 815-16."  
28 Meier v. Keller, supra, 521 F.2d at 554.