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Attorneys for Lanier A. Ramer

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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. LYNETTE ALICE FROMME, Defendant.	No. CR. S-75-451 NOTICE OF MOTION TO QUASH SUBPOENA

TO: THE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA, D. DWAYNE KEYES; LYNETTE ALICE FROMME, DEFENDANT; JOHN E. VIRGA, ATTORNEY FOR DEFENDANT.

You will please take notice that on November 10th, 1975 at , or as soon thereafter as counsel can be heard before Hon. Thomas J. MacBride, United States District Judge for the Eastern District of California, Lanier A. Ramer will move the Court for an order quashing the subpoena commanding him to testify in the above matter to be based upon the annexed Motion and Memorandum of Points and Authorities in support thereof, and the exhibits attached thereto.

Coleman A. Blease
Coleman A. Blease

Alvin J. Bronstein
Alvin J. Bronstein

November 7, 1975

Attorneys for Lanier A. Ramer

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Attorneys for Lanier A. Ramer

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. LYNETTE ALICE FROMME, Defendant.	)	No. CR. S-75-451 MOTION TO QUASH SUBPOENA

Lanier A. Ramer, by his undersigned counsel, moves to quash the subpoena, dated October 29, 1975, commanding him to appear and testify on behalf of the United States in the above-entitled case. A copy of said subpoena, the original of which was served upon Mr. Ramer at 11:26 a.m. on November 4, 1975 in Washington, D. C., is attached hereto as an exhibit. The grounds for this motion, as more particularly set forth in the accompanying Memorandum of Points and Authorities, are:

1. The prospective witness has no evidence which is or could be relevant to this case, nor does he have any evidence which would be admissible in this case. The jury is therefore likely to make improper inferences from any information he might have to the substantial prejudice of the defendant.

2. The government is attempting to use this prospective witness in the context of an informer. Because any information he might have is irrelevant to this case, is unnecessary to the government's case and would be prejudicial to the defendant, the public interest requires that he be accorded a privilege against testifying.

3. Compelling this prospective witness to testify would place in jeopardy his ability to be gainfully employed in the future, would seriously impair his ability to effectively work in the future for a governmental agency, and is therefore against the public interest.

4. Compelling this prospective witness to testify would create the threat of imminent danger to his family and himself. Furthermore, because the prospective witness is in the custody and control of the Attorney General of the United States by virtue of his having been released on parole by the United States Board of Parole, he is subject to retaking for a possible violation of parole. Thus, he faces the terrible dilemma of choosing between the threat of danger to his family and himself by testifying and the possible revocation of his parole status and subsequent lengthy incarceration by declining to testify.

Respectfully submitted,

Coleman A. Blease

Alvin J. Bronstein

November 7, 1975

Attorneys for Lanier A. Ramer

Subpoena to Testify

PHONE COLLECT: DONALD H. HELLER (Area Code 916) 449-2331 BEFORE coming to Sacramento, as date may change.

Cr. Form No. 20 (Rev. 5-68)

United States District Court

FOR THE

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

LYNETTE ALICE FROMME

No. CR. S-75-451

U. S. MARSHAL AUTHORIZED TO ADVANCE TRAVEL FUNDS

To Lanier Allison Ramer, National Prison Project, 1346 Connecticut Avenue, Suite 1031, Washington, D. C.

You are hereby commanded to appear in the United States District Court for the Eastern District of California at Room 2058, 650 Capitol Mall in the city of Sacramento on the 4th day of November 1975 at 8:45 o'clock A.M. to testify in the above-entitled case.

This subpoena is issued on application of the[1] United States.

October 29, 1975

DWAYNE KEYES, United States Attorney
DONALD H. HELLER, Asst. U.S. Attorney
Attorney for Plaintiff
2058 Federal Building, 650 Capitol Mall
Address Sacramento, California 95814

JAMES R. GRINDSTAFF, *Clerk.*

By _____, *Deputy Clerk.*

RETURN

Received this subpoena at _____ on _____
and on _____ at _____ I served it on the
within named _____
by delivering a copy to _____ and tendering[2] to _____ the fee for one day's attendance and the mileage
allowed by law.

_____,

Service Fees By _____,

Travel _____ $
Services _____
Total _____ $

[1] Insert "United States," or "defendant" as the case may be.
[2] Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825, or on behalf of a defendant who is financially unable to pay such costs (Rule 17(b), Federal Rules Criminal Procedure).

FPI-MI—8-16-73-2400 PADS-961

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Attorneys for Lanier A. Ramer

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. LYNETTE ALICE FROMME, Defendant.	)	No. CR. S-75-451 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO QUASH SUBPOENA

Lanier A. Ramer has moved to quash the subpoena, dated October 29, 1975, commanding him to appear and testify on behalf of the United States in the above-entitled case.*/

As we will make clear at the in camera hearing, Mr. Ramer has no knowledge of any of the facts or circumstances concerning the events which form the basis of the government's case against the defendant, to wit: the alleged attempted assassination or assault on President Ford.

1. Mr. Ramer has no evidence which is or could be

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*/ For the very reasons that form the basis of the motion to quash the subpoena, we are reluctant to disclose or discuss herein the facts, which, we are informed by the government, led to their issuing the subpoena. Those facts will be disclosed to the Court at the in camera hearing we have requested, subject to an agreement that such disclosure will not constitute a waiver of the privilege claimed herein. Thus, we set out certain matters only in a general manner.

relevant to this case, nor does he have any evidence which would be admissible in this case. The defendant herein is charged with a specific intent crime. Even if we assume that Ramer has knowledge of some activity of the defendant, prior to the alleged assassination attempt, that prior activity, even if it constituted evidence of other crimes,*/ would only be admissible "when relevant to (1) motive, (2) intent, (3) the absence of mistake or accident, (4) a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of the one tends to establish the other, and (5) the identity of the person charged with the commission of the crime on trial." Drew v. United States, 331 F.2d 85, 90 (D.C. Cir. 1964). None of those elements exist in our situation, or, if they do, proof of any such element is absolutely unnecessary from this witness.

The government's attempt to elicit testimony about other matters, irrelevant to the case at bar, is directly analogous to "joinder" cases.**/ And, "It is a principle of long standing in our law that evidence of one crime is inadmissible to prove disposition to commit crime, from which the jury may infer that the defendant committed the crime charged. Since the likelihood that juries will make such an improper inference is high, courts presume prejudice and exclude evidence of other crimes unless that evidence can be admitted for some substantial, legitimate purpose. Drew v. United States, supra at 89 (emphasis in original) (footnotes omitted).

A number of recent Ninth Circuit cases have followed the Drew reasoning in dealing with joinder cases.***/ Thus, the

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*/ The in camera hearing will make clear that he has no evidence of other "crimes".

**/ These cases usually arise where a defendant moves for a severance and separate trials.

***/ See for example, Parker v. United States, 404 F.2d 1193 (9th Cir. 1968); United States v. Keen, 508 F.2d 986 (9th Cir. 1974).

court in Bayless v. United States, 381 F.2d 67 (9th Cir. 1967) cited Drew for the factors concerning relevance in considering whether the trial court had abused its discretion in refusing to grant a severance. The Court of Appeals stressed the importance "of weighing the prejudice [to the defendant] against the definite advantage to the administration of justice." Bayless v. United States, supra at 72.

There are clearly no "obviously important considerations of economy and expedition in judicial administration." Drew v. United States, 331 F.2d at 88, in this case. The Court in exercising its discretion, must therefore weigh only the prejudice to the defendant which would be caused by permitting Ramer to testify. The operative facts in this case are so evident,*/ that to risk prejudicial error in a case of this national magnitiude by permitting the government to present to the jury extraneous and highly irrelevant and inflammatory matters would be, we respectfully submit, a serious mistake.

2. The government is attempting to use this prospective witness in the context of an informer. We believe the in camera hearing will disclose that any information Ramer might have is irrelevant to this case, unnecessary to the government's case and highly prejudicial to the defendant. Thus, we submit that the public interest requires that he be accorded a privilege against testifying.

The privilege against disclosure of an informer ordinarily arises in the reverse context, that is, where a defendant seeks to compel the government to disclose the identity of an informer or the information in his possession.**/ However, we believe

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*/ Indeed, the actions of the defendant, for which she stands charged, were seen on the national broadcast media and read about in national print media.

**/ We are not suggesting by this discussion that Mr. Ramer is a government informer, but only that the government is seeking to use him as one.

that the same general principles of law apply.

The leading case on this issue is Rovario v. United States, 353 U.S. 53 (1957) which stressed "... the fundamental requirements of fairness. Where the disclosure of an informer's identity, or the contents of his communication is relevant and helpful to the defense of an accused, or is essential to a fair determination of a cause, the privilege must give way." 353 U.S. at 60-61. Here, of course, where any disclosure would be irrelevant, prejudicial to the defense of the accused, and completely unnecessary to a fair determination of this case, the fundamental requirements of fairness should prevent the government's attempt to compel Mr. Ramer to testify.

This is not a case where the government is attempting to determine whether a crime has been committed and who committed it, or where a grand jury is performing its investigatory or law enforcement function. Compare, Branzburg v. Hayes, 408 U.S. 665, 701 (1972). Here, the government is attempting to use Mr. Ramer, who neither witnessed the alleged crime or transacted business with the defendant, upon mere speculation of the relevancy of his testimony. That is precisely the situation which the Ninth Circuit found in United States v. Kelly, 449 F.2d 329 (9th Cir. 1971) when it held that the public interest required the non-disclosure of an informer and sustained the privilege against his testifying. See also, United States v. Edwards, 503 F.2d 838 (9th Cir. 1974); United States v. Connelly, 479 F.2d 930, 933 (9th Cir. 1973); United States v. Zito, 451 F.2d 361, 364 (9th Cir. 1971)

The importance of the public's interest in non-disclosure has not only been recognized by the Supreme Court in Roviaro v. United States, supra, */ but has been codified in California.

*/ This principle was recently reaffirmed in Branzburg v. Hayes, 408 U.S. at 698.

The California Evidence Code § 1041, creates a privilege to refuse to disclose running in favor of any public entity where disclosure is against the public interest. § 1041, (a), (2). Mr. Ramer has recently been hired to work for just such a public entity, The New York State Commission of Correction. Attached hereto as an exhibit is a letter from the Chairman of that Commission which describes the damage to Mr. Ramer's ability to work for that public entity and the resulting damage to the effectiveness of that agency if he were compelled to testify for the government in this case. We submit that this is precisely the kind of privilege contemplated by the California Evidence Code.

As the letter from The New York Commission indicates, Mr. Ramer is a former prisoner (which is why his creditability with prisoners is crucial). In fact, Mr. Ramer is presently in the de jure custody of the Attorney General of the United States pursuant to Title 18 U.S.C. § 4203, in that he is presently under the supervision of the United States Board of Parole.*/ We think it important to note the public policy established by the Board of Parole on the question of informers. Pursuant to 18 U.S.C. § 4203, every federal parolee, including Mr. Ramer, is bound by certain terms and conditions which appear on the parole release agreement. In addition to any special conditions, every parolee is subject to standard condition number 7 which provides:

> You shall not enter into any agreement to act as an 'informer' or special agent for any law enforcement agency.

By analogy therefore, the United States Board of Parole

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*/ A letter confirming his parole status from the United States Probation Officer in Washington, D.C. is attached as an exhibit.

considers testifying as an informer to be against the public interest and to be anti-rehabilitative for the parolee.*/ Indeed, it is theoretically possible that the Board of Parole could consider it a violation of the above parole condition if Mr. Ramer were to testify for the government, and could subject him to revocation of parole pursuant to 18 U.S.C. § 4205, 4207.**/

In addition to placing in jeopardy Mr. Ramer's ability to be gainfully employed in the future, and certainly impairing his ability to effectively work in the future for a governmental agency, many of the "informer" cases have recognized that it is against the public interest to disclose if there is a substantial danger to the informant. See United States v. Fernandez, 506 F.2d 1200 (2nd Cir. 1974).

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*/ We are informed that Mr. Ramer's former parole supervisor, Oliver Deegan, United States Probation Officer in San Francisco, shares this opinion and is presently attempting to obtain permission from the Board of Parole to appear and testify in support of this motion to quash.

And we attach as an exhibit, a letter from Lon Kramer, his present parole supervisor, which points out to the Court the adverse effect of Ramer testifying for the government in this case.

**/ And, as we point out infra, he may also be subject to parole revocation if he declines to testify. Thus, the government has created a terribly unjust dilemma, without any real need for this witness.

Here, as we will amplify at the in camera hearing there is a double threat of danger to Mr. Ramer's family and to himself if he were to testify for the government. We think the Court can judicially note the many books and articles which deal with the bizarre behavior of members of the so-called "Manson family", of which, according to media accounts, this defendant is one. Those accounts suggest, and in one or more cases have shown, a propensity for violence on the part of this group. Certainly, the fear of violent retaliation is quite real considering the publicity surrounding this case, the notoriety of the defendant and her published and proclaimed role in the "Manson family". There is real cause here for Mr. Ramer's concern for the safety of his family and himself.

Furthermore, it is also common knowledge that the life of an informer is in great danger if he is subsequently incarcerated, and as the exhibit from the United States Probation Officer in Washington indicates, Mr. Ramer faces many years of incarceration if his parole were to be revoked. Indeed, the Federal Bureau of Prisons recognizes the danger to informers by providing for special supervision for those prisoners in their custody. A copy of the Bureau of Prisons Policy Statement No. 7900.51A, Close Supervision Cases, is attached as an exhibit.

Finally, Mr. Ramer could be convicted of contempt if he declined to testify for all of the foregoing reasons and that could trigger a revocation of his parole pursuant to 18 U.S.C. §4207. Thus, again he faces the terrible dilemma of choosing between the threat of danger to his family and himself by testifying and the possible revocation of his parole status and subsequent lengthy incarceration by declining to testify.

CONCLUSION

This Court clearly has the authority to do what we ask it to do. The law is settled that Rule 17 of the Federal

Rules of Criminal Procedure provides for a motion to quash a subpoena for testimony. 8 Moore's Federal Practice §17.11. In this case the movant raises several grounds in support of his motion, including, inter alia, the relevance of his testimony and privilege. Both grounds are factual in nature, thereby empowering the Court of necessity to hold a hearing and receive evidence. Advisory Committee's Notes to Federal Rules of Evidence 401 and 104(a) and (b). Where the purpose of the motion would be undermined by holding the inquiry in open court, the Court may provide some protection by making the inquiry in chambers, sealing the documents and issuing protective orders. 1 Weinstein's Evidence §104[04].

For all of the above reasons the subpoena issued to Lanier A. Ramer should be quashed.

Respectfully submitted,

Coleman A. Blease

Alvin J. Bronstein

Attorneys for Lanier A. Ramer

November 7, 1975

HERMAN SCHWARTZ
CHAIRMAN

STATE OF NEW YORK
STATE COMMISSION OF CORRECTION
GOV. A. E. SMITH STATE OFFICE BLDG.
P. O. BOX 7034 - ALBANY, N. Y. 12225

Dorothy Wadsworth
Eugene S. LeFevre
COMMISSIONERS

JAMES J. BEHA — NEW YORK
VICE CHAIRMAN
EDWARD R. CASS — NEW YORK
THOMAS G. YOUNG — NEW YORK
MARGUERITE N. STUMPF — BALDWIN
JOHN F. KARL — UTICA
CARMEN RODRIGUEZ — NEW YORK

November 5, 1975

Hon. Thomas J. MacBride
Chief Judge
United States District Court
Sacramento, California

Re: United States v. Fromme
CR S-75-451

Dear Judge MacBride:

I am writing to you at the request of Lanier A. Ramer of Washington, D. C., who has been subpoenaed to testify in the above matter.

I have known Mr. Ramer personally for almost one year. Approximately one month ago, arrangements were completed between the Commission of Correction and Mr. Ramer for him to commence employment by the Commission on November 13, 1975 as an investigator. This agency has just been reconstituted, and its primary function is to set and enforce minimum standards for the effective operation of New York State's correctional facilities. Mr. Ramer's duties will consist largely of visiting various state and local penal institutions and engaging in in-depth interviews with prisoners and others. It is our hope and expectation that Mr. Ramer's prison experience will provide him with the credibility among prison and jail inmates that is necessary if the Commission is to obtain an accurate picture of conditions in New York State's penal institutions.

If Mr. Ramer were to testify as a Government witness in a case of this magnitude, prisoners in this state would learn of that very quickly. As a result, Mr. Ramer's credibility with them might well be substantially damaged and his effectiveness to this agency seriously impaired.

I am informed by Mr. Ramer that you will be considering the propriety of his testimony in connection with a motion to quash his subpoena. I therefore request that Your Honor include the above information in your consideration.

Respectfully yours,

Herman Schwartz
Chairman

jl

OFFICE OF THE

PROBATION OFFICER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
WASHINGTON, D. C. 20001

[redacted] James R. Pace
CHIEF PROBATION OFFICER

[redacted] Herbert Vogt
DEPUTY CHIEF PROBATION OFFICER

November 5, 1975

TO WHOM IT MAY CONCERN:

This is to verify that Mr. Lanier Ramer was released on parole by the United States Board of Parole on August 8, 1975 to be under parole supervision. His supervision will continue to March 15, 1980.

Sincerely,

Lon Kramer

Lon Kramer
U. S. Probation Officer

LK:jb

OFFICE OF THE

PROBATION OFFICER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
WASHINGTON, D. C. 20001

James R. Pace
CHIEF PROBATION OFFICER

November 6, 1975

Herbert Vogt
DEPUTY CHIEF PROBATION OFFICER

Honorable Thomas J. MacBride, Chief Judge
U. S. District Court
Sacramento, California

RE: United States vs. Lynette Fromme
CR 5-75-451

Dear Judge MacBride:

I am writing to you at the request of Lanier A. Ramer, a federal parolee presently under supervision of this office, who has been subpoened by the government to testify in the above matter.

Mr. Ramer was released on parole supervision on 8-8-74 through the Northern District of California after having served an aggregated sentence of 15 years for bank robbery and escape. His supervision was transferred to Washington, D. C. in August 1975. He is to be under parole supervision until 3-15-80.

Mr. Ramer is presently employed by the American Civil Liberties Union doing para legal work, and liaison work under their National Prison Project. His employment is located at 1346 Connecticut Avenue, N. W., Washington, D. C. He has, however, completed arrangements with the New York State Commission of Corrections in Albany, New York to begin employment with their agency as an investigator. His primary duties will apparently include visiting various state correction facilities and obtaining in-depth interviews with prisoners.

It appears that this new position would provide a large step forward in Mr. Ramer's rehabilitation and successful and productive adjustment in the community. It is quite possible, however, that acting as a government witness in a case of this magnitude could have serious effects on his credibility with prisoners in the future and his job effectiveness. It is this point that I ask you to consider.

Respectfully submitted,

Lon Kramer

Lon Kramer
U. S. Probation Officer
Washington, D. C.

LK:mjc

FEDERAL PRISON SYSTEM WASHINGTON, D.C. 20534

Policy Statement

NUMBER
7900.51A
DATE
7-16-75

SUBJECT: *CLOSE SUPERVISION CASES*

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1. PURPOSE. *This statement of policy is to provide guidelines for identifying, obtaining information, and managing certain special categories of offenders who require greater case management supervision than the usual cases.*

2. DIRECTIVES AFFECTED. *Policy Statement 7900.51 dated 4/15/75 is hereby superseded. The following Policy Statements are referenced:*

   a. *Policy Statement 7400.5D, Inmate Discipline*

   b. *Policy Statement 7900.47, Special Offenders*

   c. *Policy Statement 7300.13E, Delegation of Transfer Authority*

3. DISCUSSION. *Since the implementation of Policy Statement 7300.13E, Delegation of Transfer Authority, Chief Executive Officers have had increasing difficulty in obtaining approval from other institutions to transfer inmates to their facilities, particularly when the inmate presents some management problems. Partly because of this, there has been an increase in the* * *number of inmates in administrative detention, who, for various reasons as described below in paragraph 5, are unable to return to the general population. The current number of inmates in this situation indicates the need for closer supervision.*

4. POLICY. *It is the policy of the Bureau of Prisons to maintain and make a special review of the records of all inmates who have been in administrative detention thirty consecutive days or more and who refuse to re-enter the general population. By centralized monitoring, we hope to decrease the number of these offenders through transfer and other case management assistance. This policy does not preclude a Chief Executive Officer arranging for the transfer of inmates falling in the categories described in paragraph #5 below, if the transfer is made in accordance with Policy Statement 7300.13E. In fact, if transfer is indicated, this procedure should be attempted prior to implementing the action steps contained in this policy.*

5. BASIS FOR DESIGNATION. *For the purpose of this Policy Statement, an inmate who refuses to enter the general population for at least thirty days and who falls into any of the following categories should be designated as a close supervision case. The types of inmates who could fall into this category are as follows:*

a. *Victims of Inmate Assaults*. *Inmates who have previously been assaulted by other inmates.*

b. *Inmate Informants*. *Those inmates who have provided information to the institution staff or any law enforcement agency concerning criminal activities of others.*

c. *Homosexuality*. *Those offenders who have received inmate pressure to participate in homosexual activities.*

d. *Self-Alleged Ex-Law Enforcement Personnel and Informants*. *Those offenders who seek protection through detention, claiming to be former law enforcement officers or informants, whether or not there is official information to verify their claims. Also, offenders who have previously served as inmate gun guards and dog caretakers in state or local correctional facilities.*

e. *Unidentified or Unknown Reasons*. *Inmates who refuse to enter the general population because of alleged pressure from other unidentified inmates and those cases where the staff cannot determine, and the inmates will not provide, explanations for their refusals to return to general population.*

6. *PROCEDURE*.

a. *The Chief Executive Officer of each Bureau of Prisons facility, excluding Federal Prison Camps and Community Treatment Centers, shall assign appropriate staff to review regularly the status of all offenders in administrative detention with the goal of returning as many as possible to the general population.*

* b. *Those offenders previously described in paragraph 5 and who are unable to return to the population and have been in administrative detention status for thirty consecutive days will be given a special review by the Unit Team with input from the detention staff, and a complete written report will be sent to the Chief Executive Officer.*

c. *These reports will be reviewed by the Chief Executive Officer to insure that all feasible and practical efforts have been made by the institutional staff to place these offenders back into the general inmate population.*

* d. *If it is determined at this point that these offenders are unable to return to the population despite staff efforts, the Chief Executive Officer will submit a report (Form BOP-CUS-22) to the Administrator for Correctional Services at the Regional Office.*

e. *Upon receipt of these reports, the Regional Office will make one of two responses (taking into consideration the institution's recommendations):*

(1) The inmate remain at present facility while additional efforts * are made to move inmate back into general population.

* (2) Initiate appropriate action to get the inmate transferred to another facility so he might be moved into the general population.

f. Close supervision cases who remain in continuous Administrative Detention beyond 60 days will become the subject matter for a quarterly meeting of the Regional Administrators for Correctional Services and the Assistant Director of the Correctional Programs Division. The final decision in this instance will rest with the Assistant Director, Correctional Programs Division, Central Office. In specifying transfer of an offender, an effort will be made to distribute such cases among a number of institutions. All those * who are identified as being a Special Offender must specifically be identified in the referral report.

7. REPORTS. During the first five days of each month, the Chief Executive Officer of each Bureau of Prisons institution shall forward to the appropriate Regional Office Administrator for Correctional Services (with a copy to the Assistant Director, Correctional Programs Division, * Central Office) a monthly report (Form BOP-CUS-22) on the status of close supervision cases at that facility.

* 8. FORMS. Form BOP-CUS-22 may be reproduced locally.

Norman A Carlson

NORMAN A. CARLSON
Director
Bureau of Prisons