

# Motion to End Prosecution

April 15, 1996

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The federal defenders representing Theodore John Kaczynski, the government's suspect in the "Unabomber" case, moved to have their client's property returned and to permanently enjoin the government from proceeding to a grand jury for an indictment. They argued that a pattern of leaks to the media has poisoned any possible jury their client might face. The defense noted that anonymous federal sources were cited in more than 2,000 new stories following Kaczynski's arrest. The motion was denied.

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Michael Donahoe  
Assistant Federal Defender  
Anthony R. Gallagher  
Chief Defender  
Federal Defenders of Montana  
P.O. Box 258  
Helena, Montana 59624-0258  
(406) 449-8381  
Counsel for Defendant Theodore John Kaczynski

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

FILED  
APRIL 15, 1996  
UNITED STATES OF AMERICA,  
Plaintiff,  
vs .  
THEODORE JOHN KACZYNSKI,  
Defendant  
Crim No. MCR 96-6-H-CCL  
MOTION TO RETURN PROPERTY,  
DISMISS COMPLAINT, STAY GRAND  
JURY PROCEEDINGS AND PROHIBIT  
FURTHER PROSECUTION

COMES NOW Theodore Kaczynski (Kaczynski), by and through his undersigned counsel, and moves the Court for an order that would (i) return the property taken from his cabin; (ii) dismiss the complaint pending against him, (iii) during the pendency of this motion temporarily prohibit the United States from indicting him for any federal crime, in any federal district, which is in any way connected to the so-called "unabomber" investigation, and also (iv) that would permanently enjoin the government from prosecuting Mr. Kaczynski for such charges altogether.

This motion is based on this notice and is made pursuant to the 4th, 5th and 6th Amendments to the United States Constitution, and under the aegis of Rule 41(e) of the Federal Rules of Criminal Procedure.

The reasons and authority for these requests are more fully set forth in the supporting memorandum of argument and authority that we have filed herewith.

WHEREFORE Kaczynski prays that the Court will consider these motions and grant the relief requested herein.

Respectfully Submitted April 14, 1996.

MICHAEL DONAHOE

Assistant Federal Defender  
Federal Defenders of Montana  
P.O. Box 258  
Helena, Montana 59624-0258  
Counsel for Defendant

# CERTIFICATE OF SERVICE

I hereby certify that on April 15, 1996, a true and accurate copy of the above and foregoing was duly served upon the following counsel of record by: \_\_\_ fax transmission; \_x\_ hand delivery; or \_\_\_ depositing the same in the United States Mail, postage prepaid, addressed as follows:

Bernard F. Hubley  
Assistant United States Attorney  
United States Attorney's Office  
100 N. Park Ave., Suite 100  
Helena, Montana 59601

Michael Donahoe  
Assistant Federal Defender  
Anthony R. Gallagher  
Chief Defender  
Federal Defenders of Montana  
P.O. Box 258  
Helena, Montana 59624-0258  
(406) 449-8381

Counsel for Defendant Theodore John Kaczynski  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

vs .

THEODORE JOHN KACZYNSKI,  
Defendant  
Crim No. MCR 96-6-H-CCL  
MEMORANDUM IN SUPPORT  
OF MOTION TO RETURN PROPERTY,  
TO DISMISS COMPLAINT AND TO  
PROHIBIT FURTHER PROSECUTION

Theodore John Kaczynski (Kaczynski) has moved the Court for an order that would return his property, dismiss the complaint pending against him, and prohibit the government from prosecuting him further for crimes related to the so called "unabomber" investigation. This memorandum supports that motion.

# JURISDICTION

Rule 41(e) of the Federal Rules of Criminal Procedure allows for the filing of a pre-indictment motion for return of property in the "district court for the district in which the property was seized" *Id.* Also see, *Center Art Galleries-Hawaii v. United States of America*, 875 F.2d 747, 752 (9th Cir. 1989), quoting with apparent approval *United States v. Roberts*, 852 F.2d 671 (2nd Cir. 1988).

Courts have divided on the standard applicable to pre-indictment, as opposed to post-indictment, Rule 41(e) motions. For example, in *In re Campola*, 543 F.Supp. 115 (N.D. N.Y. 1982) the court held that a pre-indictment motion for return of property should only be considered when the following factors are satisfied.

- (1) when there has been a clear showing of a search and seizure in callous disregard of the fourth amendment or some other constitutional or statutory provision;
- (2) when the movant would suffer irreparable injury if relief is not granted; and
- (3) when the movant is without an adequate remedy at law.

Another district court, however, holds that Rule 41(e) requires consideration of a pre-indictment suppression motion without regard to such restrictions, which are usually applicable to lawsuits requesting equitable relief. *Roberts v. United States*, 656 F.Supp. 929, 932-33 (S.D.N.Y. 1987), *rev'd on other gr.* 852 F.2d 671 (2d Cir. 1988), *cert. denied*, 488 U.S. 993, 109 S.Ct. 556, 102 L.Ed.2d 583 (1988).

Without waiving his right to argue later on that the nonrestrictive standard of *Roberts* applies, Kaczynski asserts that he meets the factors set forth in *Campola*. First, as the discussion below indicates, there is sufficient evidence to justify the tentative conclusion that the United States deliberately and systematically leaked information to the media in derogation of Kaczynski's 4th and 5th Amendment rights. Second, without quick and decisive action by this Court through treatment of this motion, Kaczynski will forever be denied his constitutional entitlement to an unbiased grand jury indictment(s), therefore the potential for irreparable harm is substantial. And, third, there simply is no other remedy. The government should not be allowed to proceed before various grand juries throughout the country, that have been permanently poisoned by the government's outrageous conduct in disclosing to the media the highly incriminating nature of the evidence taken from Kaczynski's cabin. Because, once those indictments are handed up, and undoubtedly they will be, the government will be able to argue that proceeding to trial before a petit jury is the appropriate cure for its misbehavior. See *United States v. Mechanik*, 475 U.S. 66, 67, 106 S.Ct. 938, 940 (1986) (petit jury's guilty verdict demonstrates that there was probable cause to charge the-defendant thus convictions must stand despite Rule 6 violation).

Therefore, the Court should act now and take this inevitable argument out of the government's quiver, by making an immediate determination of the issues raised herein. And in the meantime, while these issues are being considered, the Court should prohibit the government from going before any grand jury, in any district on any charge, until a decision on this motion has been rendered.

Having stated the jurisdictional base for this motion, we now proceed to argue its merits.

# INTRODUCTION

This case began on April 3, 1996, when the government applied to this Court under seal for a warrant to search Kaczynski's cabin at Lincoln, Montana. After considering the application the Court granted the government's request and a search warrant was issued.

In due course a search of Kaczynski's cabin ensued. And almost immediately media reports started coming over the airwaves (radio and T.V.) that an unidentified person, thought to be the "unabomber", had been apprehended. These initial reports went unabated for several hours. Thereafter, similar reports were issued containing more details. Not only did these later reports identify Kaczynski as the "unabomber", they also contained blow-by-blow accounts of the alleged evidence being taken by the government agents from his cabin. Next the print media became involved and newspapers across the country began publishing similar type stories. And this pattern continues, even at this writing.

The burden to conduct a fair and thorough prosecution undoubtedly falls to the government. And in no manner do we challenge the government's right to do so. However, in carrying out such duties prosecutors are subject to constraints and responsibilities that do not apply to other lawyers. While it can generally be said that lawyers representing private parties must do everything ethically permissible to advance their clients' interests, lawyers and their investigative agents representing the government in criminal cases serve truth and justice first. The prosecutor's job is not just to win, but to win fairly, staying well within the rules. For example, it has been specifically held that

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor - indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

*Berger v. United States*, 295 U.S. 78, 88, 55 S.Ct. 629, 633 (1935) overruled on other grounds, *Stirone v. United States*, 361 U.S. 212, 80 S.Ct. 270 (1960). And, in a similar vein, Justice Douglas once warned



The function of the prosecutor under the Federal Constitution is not to tack as many skins of victims as possible to the wall. [H]er function is to vindicate the right of the people as expressed in the laws and give those accused of crime a fair trial.

*Donnelly v. DeChristoforo*, 416 U.S. 637, 648-49, 94 S.Ct. 1868, 1874 (1974) (Douglas, J. dissenting).

Thus, although the warrant granted the government the right to search Kaczynski's cabin, at the same time it was the government's responsibility to do so in a manner that would be considerate of Mr. Kaczynski's statutory and constitutional rights. Yet in this latter respect the government has utterly, miserably, and most of all deliberately, failed. And blame for this condition must be assigned to those responsible for it.

Against this background Kaczynski makes three contentions.

# CONTENTIONS

First, Kaczynski has a right to due process and equal protection, under the United States Constitution, which includes the right to an unbiased grand jury process. See U.S. Const. Amend. 5. Also Kaczynski has the right to be free from unreasonable search and seizure and to a fair trial under the 4th and 6th Amendments, respectively.

Second, these rights have been irreversibly abridged by the government's deliberate and unlawful disclosure of the evidence allegedly seized and/or information allegedly obtained as a result of the search of Kaczynski's cabin.

Third, the government should be held accountable for this calculated destruction of Kaczynski's rights through the imposition of three sanctions: (i) return of all of the property taken from his cabin; (ii) dismissal of the pending complaint, and (iii) an order from the Court that would temporarily, and then permanently, prohibit the government from prosecuting Kaczynski any further.

We now address these three contentions.

# ARGUMENT AND AUTHORITY

Kaczynski has the rights to due process and equal protection which includes an unbiased grand jury process.

The due process provision of the 5th Amendment was intended to guarantee procedural standards adequate and appropriate to protect at all times people charged with or suspected of crime by those holding positions of power and authority. *Chambers v. State of Florida*, 309 U.S. 227, 236, 60 S.Ct. 472, 476-477 (1940). Also, the Due Process Clause of the 5th Amendment to the United States Constitution includes a guarantee of equal protection that is parallel to that which is contained in the 14th Amendment. See, e.g., *Weinberger v. Wisenfield*, 420 U.S. 636, 638, n.2, 95 S.Ct. 1225, 1228, n.2. An action that violates equal protection when committed by a state actor violates the due process clause of the 5th Amendment when committed by a federal actor. *Johnson v. Robison*, 415 U.S. 361, 364-365, n.4, 94 S.Ct. 1160, 1165, n.4 (1974).

Furthermore, the 5th Amendment affords the accused the right to be indicted by an unbiased grand jury. See e.g. *Beck v. Washington*, 369 U.S. 541, 546, 82 S.Ct. 955, 958 (1962) (due process probably entitles the accused to an unbiased grand jury in venues that employ such a procedure). The grand jury is part of our constitutional heritage, which was brought to this country with the common law. It functions as a "barrier to reckless or unfounded charges." *United States v. Mandujano*, 425 U.S. 564, 571 96 S.Ct. 1768, 1774 (1976). For centuries the office of the grand jury has been to provide a shield against "arbitrary or oppressive action, by insuring that serious criminal accusations will be brought only upon the considered judgment of a representative body of citizens acting under oath and under judicial instruction and guidance." *Ibid*.

In contrast to these overarching due process rights contained in the 5th Amendment, the 4th and 6th Amendments embody more particular guarantees. Under the former the people enjoy the right to be free from "unreasonable searches and seizures." See, e.g. *United States v. Hotchkiss*, 60 F.Supp. 405, 407 (Dist. Ct. Maryland 1945) (whether search and seizure is unreasonable depends on whether what was done and found bears reasonable relation to authority then possessed or transcends it to become oppressive). And under the 6th Amendment the accused enjoys the right to a fair, speedy and public trial. See, e.g., *Duncan v. Louisiana*, 391 U.S. 145, 194, 88 S.Ct. 1444 (1968) (right to jury trial is a fundamental one).

These rights have been irreversibly abridged.

Since April 3, 1996, the government has been intentionally leaking highly prejudicial information to the print and electronic news media. To prove this we have annexed hereto a survey of news articles (See Appendix A).

These articles contain information concerning damning evidence alleged to have been found in Kaczynski's cabin. And in each instance the source for such information was a government agent.

In our second appendix (See Appendix B), we share with the Court a simple word search that we conducted on a news source database. The word configuration that we used for the search was: "KACZYNSKI UNA-BOMB FEDERAL OFFICIAL ANONYMOUS SOURCE". This word formula turned up 2, 204 stories throughout America.<sup>1</sup>

This pattern of deliberate disclosure by government officials has unalterably compromised Kaczynski's constitutional rights in two separate but related ways. First, it rendered the search of Kaczynski's cabin "unreasonable" within the meaning of the Fourth Amendment. In simple terms, it was constitutionally unreasonable within the meaning of the 4th Amendment for government officials and agents to provide the media minute-by-minute, graphic descriptions of the evidence being collected, when they knew that such evidence would eventually have to be put before a grand jury or juries in order to bring charges.

These deliberate disclosures poisoned the entire population of grand jurors within the United States against Mr. Kaczynski. Thus, by carrying out the search of the cabin in the unreasonable manner described above, the government has made it forever impossible for Mr. Kaczynski to obtain his constitutional entitlement to an unbiased review of the evidence by the grand jury.

The government's conduct in this case has been primitive and most nearly resembles the lynch mob mentality depicted in such classics as the Ox Bo Incident (Walter C. Clark, 1943), just to name one. The criminal trial process is not like an election to be won through the use of the T.V., radio and newspapers. It is a cautious and controlled series of procedures designed to determine fairly the actual guilt or innocence of the accused. In Mr. Kaczynski's case the possibility that he could ever be afforded anything that might even remotely resemble that process has been forever lost.

The government's predictable response to all of this will be two-sided. First, the government will contend that it is not responsible for the leaks. And then it will argue that Mr. Kaczynski would never be able to show that he was prejudiced by them in any event. In anticipation of these unsatisfactory responses Kaczynski argues as follows.

On the first point we concede that "it is not asking too much that the burden of showing essential unfairness be sustained by him who claims such injustice." *United States v. Handy*, 351 U.S. 454, 462, 76 S.Ct. 965, 970 (1956). But the party who bears such a burden must be given an adequate opportunity to fulfill it. Thus, if the government's rejoinder to these papers in any way suggests that it is not responsible for

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<sup>1</sup> Later in this memorandum we ask for an evidentiary hearing so that we can prove to the Court that the government is responsible for the leaks (see pp 11 and 12 below). Also at that hearing we expect to provide more detailed statistical information concerning the number, content and sources of damning stories that have been published throughout America. Here we note for sake of emphasis that what we have included in Appendices A and B is just the proverbial tip of the iceberg, and is only representative of the proof we expect to bring before the Court.

the lethal media blitz that has been occurring over the past couple of weeks, Kaczynski is entitled to an evidentiary hearing to prove that assertion wrong.<sup>2</sup>

In this connection we would envision calling as witnesses at such a hearing the media personnel who printed or reported some of the more egregious stories, to have them name their government sources in open court. Furthermore, we anticipate calling as a witness the Deputy Attorney General of the United States in charge of the Criminal Division of the Department of Justice to determine what, if any, measures were taken before the search warrant was executed, and then later after the leaks started occurring, to insure that security would be maintained, vis-a-vis, the evidence and information being collected during the search.

On the second anticipated government argument (Kaczynski's inability to show prejudice) we argue that this case presents a situation where the structural protections of the grand jury have been so compromised by the government's misconduct that any remaining process would be fundamentally unfair, thereby allowing for a presumption of prejudice. Cases of this ilk are exemplified by *Vasquez v. Hillery*, 474 U.S. 254, 106 S.Ct. 617 (1986) where it was held that racial discrimination in selection of grand jurors compelled dismissal of the indictment. In addition to involving an error of constitutional magnitude, the court in *Vasquez* noted that other remedies were impractical and it could be presumed that a discriminatorily selected grand jury would treat the defendant unfairly. In *Ballard v. United States*, 329 U.S. 187, 67 S.Ct. 261 (1946) the court reached a similar conclusion where women had been excluded from the grand jury. Thus the nature of the violations in *Vasquez* and *Ballard* controlled and allowed for the presumption of prejudice.

In *United States v. Russell*, 411 U.S. 423, 431-432, 93 S.Ct. 1637, 1643 (1973) the court observed that conceivably a situation could one day arise in which "the conduct of [government] agents is so outrageous that due process principles would absolutely bar the government from invoking judicial process to obtain a conviction" *Id.*(emphasis added). Thus Kacsynski argues that in combination *Vasquez*, *Ballard* and *Russell*, provide the legal framework necessary to warrant the granting of a hearing on these issues, and to justify serious consideration of the drastic remedies of dismissal and no further prosecution that we pray for herein.

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<sup>2</sup> On the issue of the requirement for a hearing on this motion see *United States v. Handy*, 351 U.S. 454, 462, 76 S.Ct. 965, 970 (1956) ("[p]etitioner has been given ample opportunity to prove that he has been denied due process of law" based on atmosphere of hysteria and prejudice resulting from news coverage). And also *Wood v. Georgia*, 370 U.S. 375, 387, 82 S.Ct. 1364, 1371 (1962) (record "barren" of findings necessary to support conclusion that county sheriff interfered with grand jury process by incendiary public comments). By implication these cases suggest that upon an adequate initial showing on issues such as these, an evidentiary hearing and findings are required.

# CONCLUSION

WHEREFORE, Kaczynski prays that the Court will entertain this motion in the context of an evidentiary hearing, and in the meantime prohibit the government from indicting Mr. Kaczynski in any district in these United States.

Respectfully Submitted April 14, 1996.

MICHAEL DONAHOE

Assistant Federal Defender  
Federal Defenders of Montana  
P.O. Box 258  
Helena, Montana 59624-0258  
Counsel for Defendant

# CERTIFICATE OF SERVICE

I hereby certify that on April 15, 1996, a true and accurate copy of the above and foregoing was duly served upon the following counsel of record by: \_\_\_fax transmission; x hand delivery) or \_\_\_depositing the same in the United States Mail, postage prepaid, addressed as follows:

Bernard F. Hubley  
Assistant United States Attorney  
United States Attorney's Office  
100 N. Park Ave., Suite 100  
Helena, Montana 59601

# APPENDIX A

GREAT FALLS TRIBUNE, APRIL 4, 1996

Page 1 A member of the Unabom task force, speaking to The Associated Press on condition of anonymity, identified the man as Ted John Kaczynski and said he had been using many aliases.

Page 8A Rick Smith, who retired just on Friday from the FBI in San Francisco, headquarters of the Unabom task force, said the force had half a dozen good suspects in the case in recent months, and all but one of them appeared less likely to be the Unabomber as the investigation continued. The one who became more likely is the man in Montana, he said. "On this particular instance, the further we went along the more likely it was he was a viable suspect. So I think the FBI's fairly certain they have the right man," he said.

BILLINGS GAZETTE, APRIL 4, 1996

Page 1 Sources told The Gazette federal officials have "extremely damaging" evidence against 55 year-old Ted John Kaczynski,...A source close to the case told The Gazette officials have a document of Kaczynski's written years ago that mirrors the Unabomber's 35,000-word manifesto.

THE MONTEREY COUNTY HERALD, APRIL 5, 1996

Page 12A Federal officials said searchers also found two manual typewriters. The Unabomber has sent a sheaf of typed letters over the past few years, and investigators wanted to compare those with the typewriters.

THE BILLINGS GAZETTE, APRIL 5, 1996

Page 2A David Kaczynski was torn between duty to country and loyalty to family before he pointed investigators toward his older brother as a possible suspect in the 18-year series of Unabomber attacks, federal agents said Thursday. Ultimately, Kaczynski got an acquaintance, a Washington lawyer, to relay his suspicions to the FBI in early January, according to agents who requested anonymity.

THE INDEPENDENT RECORD, APRIL 5, 1996

Page 4A He [Kaczynski] submitted to lengthy questioning without requesting a lawyer, another federal official [said]... Noting the lack of electricity at the cabin, agents said the Unabomber could have built his meticulous bombs without power tools, one official said.

Page 5A "We know he was a smashing success professionally. He graduates from Harvard at the age of 20, gets his Ph.D. in Michigan and then gets a job in the mathematics department at Berkeley," said Michael Rustigan, a criminologist at San Francisco State University who assisted in crafting the investigative profile used by



the Unabom Task Force. "This is absolutely the premier mathematics department in the nation and he gets a job there as an assistant professor. He has one of the most brilliant careers in the country before him, and then he quits after two years. What happened? That's the question. What happened?" "This kind of success is truly an exception for serial killers," Rustigan said.

Page 8A The officials denied a CBS News report that alibi evidence for two bombings had been uncovered. "Nothing has been found that precludes him from being the Unabomber," said a senior federal official in Washington.

BILLINGS GAZETTE, APRIL 6, 1996

Page 1

Typewriter is a match, says federal official (Headline)

A manual typewriter found in Theodore J. Kaczynski's shack appears to be the one the Unabomber used to type his letters and his grand manifesto about the evils of technology, a federal official said Friday.

Two manual typewrites were taken from the cabin and were being analyzed at FBI headquarters in Washington, but "it looks like the manifesto and the letters from the Unabomber were typed on" one of them, according to the official in Washington, who spoke on condition of anonymity. "We'll know for sure after the detailed lab analysis."

A federal agent speaking on condition of anonymity said the search of the hand-built 10-by-12 foot cabin was going slowly for fear of booby traps.

THE NEW YORK TIMES, APRIL 7, 1996

Page 1 Yesterday, investigators trying to connect Mr. Kaczynski to the bombings determined that, as they had suspected, he had frequently ridden intercity buses, which would have allowed him to travel from Montana to both Utah and Northern California, where the bomber had been active since 1981.

Page 13 Federal agents say Theodore Kaczynski lived in Salt Lake City for a while in the early 1980's - though city and state agencies there say they have no record of him - and the bomber's activities shifted there then.

HOUSTON CHRONICLE, APRIL 7, 1996

ABC News reported late Friday that agents found intricately carved wooden boxes in the shack.

Carved videocassette-sized wooden boxes, sometimes made from four different woods, were used in some of the Unabomber's bombs.

The Washington Post Saturday quoted an unnamed official in Washington as saying they were "99.9 percent sure" that Kaczynski is the Unabomber, who began his campaign of terror in 1978 when a person was injured by a bomb that exploded at Northwestern University in Evanston, Ill.

In other developments Saturday, U.S. News and World Report reported that, according to U.S. Department of Justice sources, Kaczynski had relied on his family to support him over the years, receiving thousands of dollars from them. That could explain how a man with no visible means of support could have traveled the country planting or mailing bombs.

THE SACRAMENTO BEE, APRIL 7, 1996

So far, Kaczynski has been charged with nothing more than a single count of possessing bomb components. But the federal source said investigators who have been hunting the Unabomber are uncovering a wealth of information inside his ramshackle hovel and are "150 percent certain" they have their man.

Investigators looked at the documents, including letters that Kaczynski had written over the years to his mother, Wanda, and were stunned: They read like an introduction to the manifesto. "I said, 'This guy either wrote the manuscript or he is very close to the person who did,' "said a federal investigator.

MISSOULIAN, APRIL 7, 1996

Page B2

Investigators defuse bomb (Headline)

Investigators discovered and defused a live bomb in the cabin of Theodore Kaczynski, the former math professor suspected of being the elusive Unabomber, a federal law officer said Saturday.

Agents, who have been warily searching Kaczynski's cabin since he was taken into custody Wednesday believe the bomb they diffused Friday was intended for someone in particular, said the official. Authorities now have little doubt that they have apprehended the man responsible for placing or mailing bombs that have killed three people and injured 23 others over the past 18 years, said the official, who spoke on condition of anonymity. "I've been working this case since 1985," he said. "If it isn't him, I don't know who it is."

CHICAGO TRIBUNE, APRIL 7, 1996

Page 1

Search by FBI yields live bomb (Headline)

The explosive apparently was intended for a specific target, said one federal official, refusing to elaborate.

THE MONTANA STANDARD, APRIL 8, 1996

The Chicago Tribune reported Sunday that federal agents in mid-March searched a shed at the Kaczynski family home in the Chicago suburb of Lombard, Ill., and found matches, traces of gunpowder and half-empty containers of compounds used in making explosive devices. The newspaper, citing unnamed sources, said agents also determined that Kaczynski was in the Chicago area when the first four Unabomber devices were planted or mailed from there in the late 1970's and early 1980's.

THE SACRAMENTO BEE, APRIL 8, 1996

Federal sources, speaking on a condition of anonymity, said he [Kaczynski] may have stayed in Northern California for months at a time.

Federal sources have told The Bee that they are "150 percent" certain that Kaczynski, 53, is the elusive bomber who has eluded them for almost 18 years.

The sources, speaking on condition of anonymity, said they have uncovered a "gold mine" of evidence in his Montana cabin linking him to the bombings, including manual

typewriters they believe may have been used for typing his 35,000-word anarchistic manifesto.

MISSOULIAN, APRIL 8, 1996

Page 1 Federal agents searching the cabin of former University of California, Berkeley, math professor Theodore Kaczynski have found evidence directly connecting him to at least one of the bombings carried out by the elusive Unabomber, a source familiar with the investigation said Sunday.

Investigators also disclosed Sunday that the bomb discovered in Kaczynski's cabin over the weekend was not only fully constructed, but had batteries attached to it - a key step in the final arming of a bomb.

So linking Kaczynski even to one of the 16 bombs is a significant step toward connecting him to all - a connection that investigators are growing increasingly confident of being able to make. "It's there" said a federal source, who requested anonymity.

AUSTIN AMERICAN-STATESMAN, APRIL 9, 1996

One official described the similarities between one of the bombs found in the cabin and one used in a fatal attack as striking, akin to two cars of the same make and model. "It was as if once he found the right design, he stuck with it," the official said.

NEW YORK POST, APRIL 9, 1996

Page 4 Law-enforcement officials say the former Berkeley professor is the mastermind behind a 17-year bombing campaign - apparently driven by a hatred of technology - that killed three people and wounded 23.

GREAT FALLS TRIBUNE, APRIL 10, 1996

Page 1 Sources said investigators have discovered "something big" in the form of evidence that is more conclusive than anything yet disclosed.

It took 17 years to arrest a suspect in the Unabomber attacks, but the book industry isn't waiting that long to cash in. On April 25, Pocket Books will rush into publication "Unabomber: On the Trail of America's Most-Wanted Serial Killer" (\$5.99), by former FBI unit chief John Douglas and Mark Olshaker. The book recounts the FBI's long pursuit of the elusive Unabomber from the first of the 16 bombings, which have killed three and wounded 23, through suspect Theodore Kaczynski's capture in Montana last week. The book will include photographs. Douglas, an expert on criminal personality profiling, created the FBI's first profile of the Unabomber.

THE INDEPENDENT RECORD, APRIL 10, 1996

Page 1

Victim links

Names found in Kaczynski's papers  
(Headline)

The names of Unabomber victims have turned up in Theodore Kaczynski's writings found at his wilderness cabin, and federal agents have discovered possible causal contacts between him and four victims, officials said Tuesday.

"There is a general consistency in the written plans and the physical evidence found at the cabin scene, with the Unabomber's work," said a law enforcement official in

Washington, commenting only on conditions of anonymity. "The names of some victims were found in the cabin", he said, declining to disclose them or in what form they appeared.

THE SACRAMENTO BEE, April 10, 1996

Kaczynski is being held on a single charge of possessing bomb components, but federal sources have said they are certain he is the Unabomber and more charges will follow.

Federal sources told The Bee that agents have found a list of categories of individuals who may have been future bombing targets - including executives and social climbers.

"He obviously did not plan to keep his promise (to cease bombing)," a federal source said.

Federal sources have said they are amassing evidence that Kaczynski, who lived like a hermit in Montana, traveled to Northern California and stayed for weeks or months at [a] time.

THE INDEPENDENT RECORD, APRIL 11, 1996

Page 7A Report: Kaczynski had clothes that matched famous police sketch  
(Headline)

Federal agents searching the Montana cabin of Unabomber suspect Theodore Kaczynski found aviator sunglasses and a sweatshirt similar to those seen by the only known witness to a Unabomber attack, newspapers in Chicago and San Francisco reported on Wednesday. The Chicago Tribune and San Francisco Examiner, citing an unidentified law enforcement official, said the shirt and glasses were found on Tuesday.

NBC Nightly News reported Wednesday that a live bomb found in Kaczynski's cabin had been wrapped for mailing and given a phony return address. It had not yet been addressed to anyone, the network said.

THE INDEPENDENT RECORD, APRIL 12, 1996

Page 4A Information from Justice Department sources indicates that Kaczynski apparently moved from Montana back to Chicago sometime that year. The first bomb detonated at Northwestern University in May 1978.

Page 7A "From IR wire service" The Boston Globe quoted an FBI source... The source also offered elaboration on evidence already obtained by agents. The manual typewriter reported by some newspapers to have matched the writing on the Unabomber's anti-technology manifesto in fact matched the labels on letters from the Unabomber to his targets, not the manifesto. In addition, a large number of maps with markings consistent with Unabomber attack sites were recovered, the source said.

THE WASHINGTON POST, APRIL 13, 1996

Page 1 Reputed 'Manifesto' Recovered  
Bomb Suspect's Cabin Yields Draft Version In Search, Officials Say  
(Headline)

Page 10 Officials this week confirmed that names of some Unabomb victims - and possible intended victims - had been found in unspecified documents inside Kaczynski's cabin.

The increasing evidence against Kaczynski is "overwhelming," said one senior official involved in the case.

THE NEW YORK TIMES, APRIL 13, 1996

Page 1 BOMBER MANIFESTO IS FOUND IN CABIN, LAW OFFICIALS SAY  
WEEK'S HUNT IN MONTANA

Manuscript Adds Crucial Piece to Body of Other  
Evidence - Tie to 3rd Typewriter  
(Headline)

Page 1 Federal law-enforcement officials said today that agents searching Theodore J. Kaczynski's Montana cabin had found the original typewritten manuscript of the Unabomber's 35,000-word manifesto, a powerful piece of evidence that has convinced the authorities that they have the long-sought serial terrorist.

"If we lose this one," one law-enforcement official said, "we'd better close up and go home." The officials said the manuscript left little room for doubt that Mr. Kaczynski was the Unabomber. The officials said they believed that the manuscript found at the cabin was a master copy. From it, the Unabomber laboriously typed the copies of the manifesto that he sent to The New York Times and The Washington Post in June 1995, they said. Moreover, the officials said that along with the manifesto had been found an original of a letter sent by the Unabomber to The Times last year.

Near the manuscript in the loft of the tiny one-room cabin, agents found a third manual typewriter. The first two typewrites found did not match the typewriting on the manuscripts sent to the newspapers, and officials said today that they were relieved that preliminary tests had confirmed that the type on the third machine matched the typewriting of the manuscripts.

Page 10

Copy of Unabomber's Manifesto has Been Found in Suspect's Cabin Officials Say  
(Headline)

Page 10 The officials said agents had also found handwritten notations that might refer to some of the bomber's victims in a loose-leaf notebook found in Mr. Kaczynski's cabin. The notations mentioned geneticists, airlines and computer technology.

The officials said the discovery of the manuscript in the cabin was a legally significant find in a search that has already yielded much physical evidence.

THE INDEPENDENT RECORD, April 13, 1996

Page 1

Manifesto Found

Unabomber's original treatise uncovered in cabin  
(Headline)

Page 1 What appears to be the typed original of the Unabomber's 35,000-word manifesto has been found in the cabin of suspect Theodore Kaczynski, a law enforcement

source said Friday. "We have not yet confirmed it, but it appears to be the original," the source told The Associated Press, speaking on condition of anonymity.

U.S. News and World Report said agents told the magazine the manuscript was indeed the original copy and was prepared on one of three typewriters removed from the cabin.

Page 7A A senior federal official in Washington disclosed earlier this week that all the Unabomber's communications, including the manifesto, had been typed on the same typewriter. Investigators believe he did that deliberately so authorities could authenticate the letters and rule out copy-cats.

NEWSWEEK, APRIL 15, 1996

Page 37 Last week, the investigators were forced to move quickly. From a leak, CBS News had learned about the stakeout and was threatening to break the story.

What they found inside, reportedly after a brief scuffle with the reclusive owner, was a do-it-yourself bomb lab. There were scientific volumes and 10 three-ring binders full of meticulously drawn bomb diagrams; jars full of chemicals useful for making explosives; metal ingots that could be used in explosives; batteries and electrical wiring for detonators. The agents also found a pair of old manual typewriters, one of which the Feds believe matches the typing on the 35,000-word anti-technology screed the Unabomber mailed to The New York Times and The Washington Post last June. G-men also discovered and defused a finished bomb that was all ready to be mailed.

Though Kaczynski has not yet been formally charged in any of the Unabombings, federal officials are confident they have the right guy. At last: federal agents had spent more than \$50 million as well as a million work hours trying to catch the killer.

Page 42 At the Unabom project headquarters in San Francisco last week, the FBI and ATF agents traded high-fives. One ATF agent who's been on the case for three years decided to step out and walk the San Francisco streets by himself. He had seen the shattered office of the forestry association official, splattered with body parts, and he had talked to more fortunate victims who had merely been injured. Now, as he walked along, he felt "a huge sense of relief. I thought to myself," he told Newsweek, "this guy will never kill anyone again."

U.S. NEWS & WORLD REPORT, APRIL 15, 1996

Page 30 Wanda Kaczynski didn't even ask the FBI agents to get a warrant, so on a brisk day in the middle of March, the agents conducted what is known as a consensual search of the residence. "That was really a treasure-trove," the senior Justice Department official told U.S. News. "We started analyzing the notes and letters. [Many] looked like the [Unabomber's 35,000-word] manifesto. He wrote about all of the same things in, really, some of the same phrases."

Page 31 ...and after some hurried checking, a confidential memorandum was forwarded to Attorney General Janet Reno saying, in the words of one key official, "this could be the guy."

The evidence was enough for the Unabom task force to authorize the search of Wanda Kaczynski's home. The search, investigators say, iced Kaczynski's identification as the Unabomber. Now all they had to do was arrest him.

Page 32 There was copper pipe of the type the Unabomber had used in his last four explosive devices. There was electrical wiring, C-cell batteries and a box the FBI team was afraid to open; an X-ray machine quickly identified the contents as a partially constructed pipe bomb. U.S. News has learned that a subsequent search of the cabin uncovered a completed bomb, described in a private Justice Department communication as a "fully functional device which is yet to be rendered harmless but which appears to have Unabom characteristics."

Such bomb-making materials alone could not identify Kaczynski as the Unabomber, but other items recovered from the cabin made the identification appear to be more airtight. Ten three-ring binders containing detailed handwritten notes in Spanish and English closely track the evolution of the Unabomber's explosive devices, according to a senior official

TIME, APRIL 15, 1996

Page 40 But when they finally, carefully entered the cabin, fearing booby traps, they found a whole bomb factory, including a partially built pipe bomb, chemicals, wire, books on bombmaking and hand-drawn diagrams. The cache even included components bearing, a source told Time, the unique signature of the Unabomber.

# APPENDIX B

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CLIENT IDENTIFIER: ALLEN/KACZYNSKI

DATE OF REQUEST: 04/15/96

THE CURRENT DATABASE IS ALLNEWS YOUR

TERMS AND CONNECTORS QUERY:

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ANONYMOUS SOURCE & DA(AFT 4/3/96 & BEF  
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PAGE 1



# CITATIONS LIST

Database: ALLNEWS

Search Result Documents: 2204<sup>1</sup>

1. 4/15/96 Wall St. J. A1 1996 WL-WSJ 3098830 The Wall Street Journal What's News World-Wide Word Count: 673

2. 4/15/96 Wall St. J. (Page Number Unavailable Online) 1996 WL-WSJ 3098812 The Wall Street Journal

LEISURE & ARTS

Television: Bombs Bursting on Air By Dorothy Rabinowitz

Word Count: 911

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<sup>1</sup> Note that the list above continues for another 300 pages. The entire list was not attached in order to conserve the Court's time. The list is available if the Court wishes a copy.

The Ted K Archive

Motion to End Prosecution  
April 15, 1996

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