

Rickey, J
JUL 11 1983

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

THE SYNANON CHURCH,
Plaintiff

v.

UNITED STATES OF AMERICA,
Defendant

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)
)
) CIVIL NO. 82-2303
)
)
)

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of docs*

MOTION OF THE UNITED STATES FOR AN ORDER
REQUIRING SYNANON TO IMMEDIATELY PRODUCE
ALL INFORMATION CONCERNING DESTROYED AND
HIDDEN SUBPOENAED MATERIALS DETAILING
SYNANON'S ILLEGAL ACTS, OR, IN THE ALTERNATIVE,
FOR AN ORDER DISMISSING THE COMPLAINT ON THE MERITS

The defendant, the United States of America, through its undersigned counsel, hereby moves this Court for an Order requiring Synanon to immediately produce all information concerning destroyed and hidden subpoenaed materials detailing Synanon's illegal acts, or, in the alternative, for an Order dismissing the complaint on the merits. The grounds for this motion are set forth in the attached memorandum of law which is hereby incorporated by reference.

Respectfully submitted,

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OF ITS MOTION FOR AN ORDER REQUIRING IMMEDIATE
PRODUCTION OF ALL INFORMATION CONCERNING
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DETAILING SYNANON'S ILLEGAL ACTS OR, IN THE
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This United States District Court, upon the application of the United States Attorney and with the approval of the Attorney General of the United States, has granted criminal immunity, pursuant to Title 18, U.S.C. Section 6002, et seq., to three former members of Synanon, Gary Arbiter, Betty Fleischman, and Rodney Malen. The declarations of these three witnesses, each filed herewith, reveal an astonishing picture of Synanon's violent acts and a calculated attempt to conceal Synanon's violence from the authorities and the public through unlawful efforts to destroy or hide subpoenaed evidence and through suborning perjury and the commission of perjury. 1/ The United States is submitting this memorandum in support of its motion for an order requiring immediate production of all information

1/ The United States herewith asks the Court to grant immunity to the three witnesses named and the United States herewith requests the Court to grant immunity to the three witnesses named and the United States herewith requests the Court to grant immunity to the three witnesses named.

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PRODUCTION OF ALL INFORMATION CONCERNING
DESTROYED AND HIDDEN SUBPOENAED MATERIALS
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ALTERNATIVE, FOR AN ORDER DISMISSING THE
COMPLAINT ON THE MERITS

This United States District Court, upon the application of the United States Attorney and with the approval of the Attorney General of the United States, has granted criminal immunity, pursuant to Title 18, U.S.C. Section 6002, et seq., to three former members of Synanon, Naya Arbiter, Bette Fleishman, and Rodney Mullen. The declarations of these three witnesses, each filed herewith, reveal an astonishing picture of Synanon's violent acts and a calculated attempt to conceal Synanon's violence from the authorities and the public through unlawful efforts to destroy or hide subpoenaed evidence and through suborning perjury and the commission of perjury. 1/ The United States is submitting this memorandum in support of its motion for an order requiring immediate production of all information

1/ The United States herewith uses the term subpoena interchangeably with document production requests.

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concerning destroyed and hidden subpoenaed materials detailing Synanon's illegal acts or, in the alternative, for an order dismissing the complaint on the merits.

QUESTIONS PRESENTED

1. Whether Synanon must produce all information concerning destroyed and hidden subpoenaed materials detailing Synanon's violent and other illegal acts.

2. Whether, if Synanon for any reason fails to produce all such information, its complaint must be dismissed, on the merits, with prejudice.

PRELIMINARY STATEMENT

By giving criminal immunity to three former Synanon residents, Naya Arbiter, Bette Fleishman, and Rodney Mullen, the United States, since filing its original Statement of Material Facts (Statement), has learned more about how extensive Synanon's unlawful activities have been. As the Government earlier showed in its Statement, instead of engaging in tax-exempt activities which served the public good, Synanon and its executives and officials promoted and engaged in violence and threatening conduct. The testimony of those three persons granted immunity by this Court show further that Synanon officials:

(1) attempted to hire a professional "hit man" to assassinate Attorney Paul Morantz;

(2) developed a "hit list" of Synanon's enemies who were to be attacked and physically hurt; and

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(3) directed and perpetrated specific acts of violence, and attempted to murder certain other critics of the organization.

In order to conceal this violence and additional criminal activities from the authorities and from the public, Synanon committed still other serious illegal acts.

Synanon's executives and officials, through the Synanon law department, undertook a systematic effort to destroy incriminating subpoenaed evidence, hid subpoenaed evidence, suborned perjury and committed perjury. The subpoenaed evidence was destroyed during the same period when the Internal Revenue Service was auditing Synanon's activities to determine whether Synanon's exemption from federal tax should be revoked. Synanon's tax-exempt status was revoked at the end of that audit, even though the Internal Revenue Service and the public never have seen any of the destroyed or hidden evidence. 2/ The destroyed evidence would have shown, beyond any doubt whatsoever, that Synanon was not a tax-exempt organization at all, but rather, a violent and militaristic cult dedicated to attacking and hurting its perceived "enemies" and dedicated to enriching Charles E. Dederich (Dederich) and the other Synanon elite with the public's money.

Amazingly, even though it has very carefully destroyed incriminating evidence and repeatedly lied about the true nature of its activities, Synanon has filed this lawsuit seeking to have

2/ In addition, Synanon never made available to the Internal Revenue Service the bulk of the documents contained in Government Exhibit Volumes I-IX filed on March 11, 1983, in support of the Government's Motion for Summary Judgment. Branden Dep. 202-203.

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the public support its unlawful acts through reinstatement of its federal tax-exempt status. It would be wrong, obviously, to allow a tax subsidy to Synanon--which has the purpose and effect of fostering and encouraging Synanon's criminal activities--when Synanon's policy was to further only its own unlawful, private purposes and to inflict real harm on the public in general. For this reason, the United States is submitting this memorandum in support of its motion for an order requiring immediate production of all information concerning destroyed subpoenaed evidence and other hidden incriminating evidence, all detailing Synanon's illegal activities. If Synanon, for any reason, fails to produce all such information, the United States seeks an order dismissing Synanon's complaint, on the merits, for violating the recently enunciated public policy requirements imposed on activities of purported tax-exempt organizations by the Supreme Court in Bob Jones University v. United States, 51 U.S.L.W. 4593 (May 24, 1983). 3/

STATEMENT

I

SYNANON'S VIOLENT AND ILLEGAL ACTS

A. The Synanon "Hit List"

During the summer of 1977, when the Synanon Imperial Marines were undergoing paramilitary training while encamped at the Synanon Strip property, they listened to Dederich on the Synanon

3/ As discussed in greater detail in the Government's Memorandum in Reply to Synanon's Opposition to the Government's Motion for Summary Judgment, the fact that Synanon engaged in these unlawful acts requires that the Government's Motion for Summary Judgment be granted.

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"wire" 4/ speaking from his Think Table. Indeed, it was from the Think Table that Dederich gave his "New Religious Posture" speech, a tape recording of which was seized from the Synanon "wire" facility by the Los Angeles Police Department pursuant to a search warrant. In the "New Religious Posture" speech, Dederich stated that Synanon's aggressive militaristic policy was:

* * * Don't fuck with Synanon. In any way * * *. Don't mess with us. You can get killed dead. Physically dead.

(I, A.) From many similar speeches of Dederich they heard on the "wire", the Imperial Marines prepared a "hit list" of Synanon's "enemies" who were to be physically attacked and hurt. (XII, p. 24-25; 31-32.) The "hit list" prepared by the Imperial Marines was given to Walter Lewbel, Dederich's executive secretary, for review and approval. (Id. at 24, 31.)

Among those persons on the Synanon "hit list" were the following:

- (1) Paul Morantz, Esquire - an attorney engaged in litigation with Synanon.

4/ The "wire" was a Synanon communication system from which Dederich's speeches were broadcast to all Synanon facilities. Loudspeakers were located in public places: dining rooms, workrooms and bathrooms. By using a reserved channel on television sets, the wire was also available in people's sleeping quarters. Residents were encouraged to listen to the "wire" to stay current with daily developments within Synanon. The "wire" operated 18 hours a day carrying Synanon news and music. Dederich's Think Table was considered especially important and it was not only broadcast live, but important excerpts from it - such as Dederich's "New Religious Posture" speech which was seized from the Synanon wire facility -- were later rebroadcast over the wire. (See generally, XII, p. 7.) Thus, all Synanon residents, including children, juvenile delinquents, adult drug abusers and those sent to Synanon as an alternative to jail, were exposed to the propaganda broadcasts via the wire.

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- (2) Phil Ritter - a former Synanon resident engaged in a child custody dispute with Synanon.
- (3) Jack Hurst - a former President of Synanon.
- (4) Bill Crawford - a former Synanon resident who had been left on the highway at the direction of Dederich after Crawford announced his intention to leave Synanon.
- (5) Mike Garrett - the former head of Synanon security and son of Chief Counsel Dan Garrett. He had left Synanon and was not only cooperating with the State of California in its investigation of Synanon but also engaged in a child custody dispute with Synanon.
- (6) Jack Tolchin - a former resident engaged in litigation with Synanon.
- (7) Dan Ross - a former resident "lifestyler" who had an argument with Synanon Director Ron Cook before leaving the organization because he would not hand over his last \$10,000 to Synanon.
- (8) Bobby Kohl - a former Synanon resident who cared for Dederich's wife during her last illness and subsequently left the organization.

(Id. at 24-25; 31-32.) At the direction of Walter Lewbel, Dederich's executive secretary, Jack Hurst and Mike Garrett were taken off the Imperial Marines' "hit list." (Id. at 25, 32.)

B. The Plan To Assassinate Attorney Paul Morantz By A Professional Assassin

After Dederich and his entourage fled Washington, D.C., in June of 1978 to avoid an outstanding arrest warrant for Dederich, they went to Europe and settled for the summer in Formia, Italy.

(Id. at 21, 29.)

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While Dederich and his entourage were in Formia, a Synanon executive in Formia telephoned Synanon executive Macyl Burke, who was located at a Synanon facility on the east coast, with orders to have Attorney Paul Morantz assassinated. (Id. at 21-22, 29-30.) Both Synanon attorney Red Williams and Macyl Burke have admitted to Rodney Mullen that Burke received such a phone call. (Id. at 22.)

Dederich and Garrett have also stated that other similar phone calls were placed from Formia, Italy, to Lou Delgado at a Synanon facility in California. (Id. at 5.)

After Dederich's return from Formia, Synanon's Security Chief, Art Warfield, directed Imperial Marine Joseph Musico to find a professional assassin to kill Attorney Morantz. (Id. at 22, 30.) Pursuant to these directions, Musico contacted Chuck Jolley, a convicted murderer and former Synanon resident, to find a professional assassin to kill Attorney Morantz. (Id.) Musico was told by Jolley that the "job" would cost \$10,000. (Id.) Musico reported his arrangements to Warfield. (Id.) This assassination plan was apparently eventually dropped by Synanon executives because it was too expensive. (Id.)

C. The August 28, 1978 Game Where Dederich Orders An Attack On Attorney Paul Morantz

Approximately two or three weeks after Dederich and his entourage returned to California from Formia, Italy, Dederich led a four hour game at the Home Place. 5/ (Id. at 2, 22, 30.) This

5/ A Synanon game is nothing more than a meeting where people express their true feelings.

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meeting was broadcast over the Synanon wire and was tape-recorded by Bette Fleishman. (Id. at 2-3, 22, 30.)

During the meeting, Dederich gave an impassioned speech about lawyers who were involved in suits against Synanon. (Id. at 3.) He said that, if someone sued Synanon, that Synanon would go right after their lawyer. (Id.) During his speech, Dederich stated that, if Synanon did this, people would leave Synanon alone. (Id.) Dederich then screamed at Percy Tickles, a Synanon resident present at the meeting, that Tickles was no good and ordered that Tickles should go out and get Paul Morantz. (Id. at 3, 22, 30.)

At the conclusion of the August 28, 1978, meeting, Synanon Chief Counsel, Dan Garrett, who had attended the meeting, asked Bette Fleishman to put the tape-recording of the meeting on his desk, which she did. (Id. at 3.)

Pursuant to Dederich's order, Tickles went to Los Angeles to attack Morantz. (Id. at 22-23, 30-31.) Imperial Marine Joseph Musico thought that Tickles was not competent to perform this assignment and so he went to Los Angeles to stop Tickles. (Id.) Musico did this and returned with Tickles to Synanon property. (Id.) Musico advised Dederich's executive secretary, Walter Lewbel, that it was crazy to then attack Attorney Morantz because Morantz's neighborhood was filled with police. (Id.)

D. The September, 1978, Board Game Where
Dederich Again Orders An Attack On Paul
Morantz And Orders An Attack On Phil Ritter

Approximately a week after the August 28, 1978, game where Dederich ordered Percy Tickles to attack Attorney Paul Morantz,

Synanon's Board of Directors and executives held another game in early September, 1978, at the Home Place in Badger, California.

(Id. at 3.) Bette Fleishman was responsible for tape recording this meeting and monitoring the proceedings. (Id. at 3-4.)

Present at the meeting were, among others, the following persons:

Charles E. Dederich
Ginny Dederich (the wife of Charles Dederich)
Jady Dederich (Charles Dederich's daughter)
Larry Akey (the husband of Jady Dederich)
Dan and Sylvia Garrett (Synanon's Chief Counsel)
Howard and Liza Garfield (a Synanon attorney
and his wife)
Dan and Linda Sorkin
Steve and Sue Marks
Macyl and Ellen Burke
Lee Otto
Ron and Pamela Cook
Kathy and David Gomez
Dede and Maggie Dederich (the son and
daughter-in-law of Charles Dederich)
Harvey and Sheila Hecht
Walter Lewbel

(Id. at 4.)

The meeting began with Synanon attorney Howard Garfield and his wife Liza announcing that they were leaving Synanon because of Synanon's planning of illegal activities. (Id.) They stated they did not want to be parties to these activities. (Id.) After approximately two or three hours, the Garfields left the meeting and Synanon. (Id.)

After the Garfields left, Dederich stated that Synanon had a lot of enemies and that there had been a lot of conversations in Formia, Italy, about Synanon's enemies. (Id. at 5.) Dederich and Chief Counsel Garrett also said that several telephone calls had been made from Formia to Macyl Burke and Lou Delgado at

Synanon facilities on the east coast and in California, directing that enemies of Synanon be hurt and that the "creeps" be taken care of, but that nothing had been done. (Id.) Dederich then stated that he was going to get something done "now." (Id.) Dederich said he wanted Attorney Paul Morantz "taken care of" and former resident Phil Ritter, who was then trying to get his child out of Synanon, "taken care of." (Id.)

In response to Dederich's orders, Director Ron Cook said that there had been discussions in Formia about Synanon's violent posture and how Synanon was going to take the law into its own hands. (Id.)

At one point during the meeting Dederich's daughter, Jady Dederich, jumped up and started screaming that such kind of talk should not go on with Dederich in the room because he, Dederich, could get in trouble. (Id.) At this juncture, Dederich and his wife, Ginny, left the meeting and Walter Lewbel instructed Bette Fleishman to turn off the tape recorder. (Id.) Lewbel then took possession of the tapes. This occurred at 1:00 A.M. (Id.)

At about 3:00 A.M. Pam Cook, Walter Lewbel and Lee Otto left the meeting room. (Id.) Bette Fleishman heard Pam Cook say "I can do this, I am as good as any man." (Id.)

In the morning, Dederich returned to the meeting room. Dederich stated that he was leaving California with Synanon residents Dave and Terri Schwartz. (Id. at 6.)

Approximately two days after this meeting, Kathy Gomez told Bette Fleishman that the discussions after 1:00 A.M., and before the 3:00 A.M. outburst by Pamela Cook, referred to conversations

in Formia about how to get rid of bodies by placing them in plastic bags. (Id.)

E. Synanon's September 21, 1978 Attack On Phil Ritter--The First "Hit List" Victim

Until today, the vicious attack on Phil Ritter has been an unsolved crime. 6/ The facts of this crime and Synanon's perpetration of it are set forth in the affidavits of Bette Fleishman, Rodney Mullen and Naya Arbiter, who have each been granted immunity by this Court. (Id. at 6, 23, 31.)

Only a week or two after the September Board meeting where Synanon executives discussed an attack on Phil Ritter, Dederich's executive secretary, Walter Lewbel, told Synanon Imperial Marines Alan Hubbard and Joseph Musico to attack Phil Ritter. (Id. at 23, 27.) On September 21, 1978, Hubbard and Musico viciously beat Phil Ritter with wooden mallets at Ritter's home in Berkeley, California. (Id.) The wooden mallets used during the attack were from Synanon's "Hobby Lobby." (Id.)

The attack on Ritter was particularly brutal. (XI, pp. 143-154.) He was repeatedly hit in the face and on the head with the mallets. (Id. at 144.) The beating stopped only when Musico and Hubbard fled because a crowd was gathering in response to Ritter's screams. (Id.) Doctors reported to the Berkeley police that Ritter's face bone had been crushed and that he was listed in critical condition in the intensive care unit of the hospital.

6/ Even though the Berkeley Police undertook an exhaustive investigation, they were unable to determine who beat Phil Ritter and the extent of Synanon's involvement in this beating.

(Id. at 145.) Ritter later developed meningitis due to the blows to his head and his family was informed that he might die. (Id. at 147.)

The day of the Ritter attack, Lewbel received a phone call at the Synanon Home Place, left the room, and returned to gleefully announce to Bette Fleishman and others that he had some good news: former Synanon resident Phil Ritter had just had a bad accident. (XII, p. 6.) Lewbel later admitted to Bette Fleishman that he felt "good about his part in the Ritter beating." (Id.) Six months after the attack, Musico admitted to Bette Fleishman that he and Hubbard had attacked Ritter. (Id.) Musico and Hubbard both later separately admitted their role in the Ritter beating to Rodney Mullen. (Id. at 23.) Musico also admitted to Naya Arbiter that he and Hubbard had been responsible for the Ritter beating. (Id. at 31.)

F. Synanon's October 10, 1978 Attempted
Assassination Of Attorney Paul
Morantz--Another "Hit List" Victim

Imperial Marine Joseph Musico had earlier prevented Percy Tickles from attacking Paul Morantz as Dederich had ordered Tickles to do on August 28, 1978. (Id. at 22-23, 30-31.) Musico did this because he did not think Tickles was capable of doing the job. (Id.) After Tickles' aborted effort to attack Attorney Paul Morantz, Walter Lewbel, Dederich's executive secretary, directed Musico to attack Attorney Morantz. (Id. at 23, 31.)

Pursuant to Lewbel's orders, on October 10, 1978, less than three weeks after Synanon's attack on Phil Ritter, Synanon Imperial Marines Joseph Musico and Lance Kenton went to Morantz's home in Los Angeles and put a four-foot rattlesnake, whose rattles had been cut off, in Morantz's mailbox. (Id. at 6, 23, 31.) Imperial Marines Musico and Kenton were familiar with handling rattlesnakes. As Imperial Marines, they had been trained by their eventual leader, Dr. Doug Robson, on how to ensure that rattlesnakes had large quantities of venom in their glands. (XI, p. 159.)

Later on October 10, 1978, Morantz reached into his mailbox and was very seriously injured when he was bitten by the snake.

II

SYNANON'S VIOLENT AND ILLEGAL ACTS ARE CHRONICLED IN THE SYNANON ARCHIVES

Many of the violent and illegal acts of Synanon are graphically detailed in Synanon's tape-recorded conversations of its executives and officials, and also in Synanon's business records which include so-called Think Table Topic Summaries, Board Minutes and incident reports of Dr. Doug Robson, once the head of Synanon's Imperial Marines.

Because Synanon's illegal acts are chronicled in its own tape-recordings and business records, the organization has undertaken a systematic effort to destroy or hide this evidence from the public and the authorities. Since this evidence would conclusively demonstrate that Synanon was engaged in illegal activities, rather than tax-exempt activities, the United States

is here moving for an order requiring that Synanon produce this material.

A. Synanon's Tape Archives

Virtually every word spoken by Synanon's founder, Charles E. Dederich (Dederich), was tape-recorded and those recordings were maintained in the Synanon Archives under the control of Steve Simon, the Synanon Archivist. (XII, p. 2.) Also, many of the discussions of other Synanon officials were tape-recorded and maintained by the Synanon Archives. (Id.) These tape recordings include, among others, tape recordings of Synanon Board Meetings, Executive Committee Meetings, Think Tables (Morning Court) and Synanon Games. (Id.) Synanon also maintains written logs of the content of many recordings and these recordings were boxed, numbered and stored. (Id.) A record of each tape recording was placed on a computer inventory of Synanon's tapes. (Id.) All these records were maintained by the Synanon Archives. (Id.)

Synanon's tape recordings contain graphic discussions of violence by Dederich and other Synanon directors, executives and residents, as well as other incriminating evidence. (Id.)

B. Synanon's Other Business Records

In addition to tape recordings, other Synanon business records contain a great deal of information about Synanon's violence and unlawfulness.

1. Think Table Topic Summaries

Dederich's Think Table (Morning Court) began in April of 1977. This soon evolved into Dederich running the Foundation

from the Think Table. 7/ By June of 1977, Synanon's Archivist, Steve Simon, was taping the Think Table. (Id. at 17, 26, 34.) College graduates and other competent personnel in the Foundation were preparing Topic Summaries of the Think Table at the direction of Simon. (Id. at 18.) Every effort was made to make these Topic Summaries as accurate as possible. (Id., XI, p. 140.) Copies of the Topic Summaries were distributed to facility directors for the purpose of disseminating to them the policies of Dederich.

7/ After delivering his "New Religious Posture" speech, but prior to the seizure of the tape recording of that speech by the Los Angeles Police Department, Dederich admitted that he ran Synanon from his Think Table. Specifically, he testified under oath at his deposition noticed and taken by Synanon attorneys on March 8, 1978, in the Time, Inc. libel suit that--

My working day is talking to people, a lot of them in my office, privately or in pairs usually. My office is not designed to hold a lot of people. Much of my--much of my thought and message that I want to get up--rather, get out to the organization for which I work is done through what we call the think table. I'll go out and sit at the think table for an hour or so, probably twice or three times a week, and sound off on something that I want to get into the woof and warp of Synanon.

* * * When I go to the think table, particularly I am really--I am really saying things at think table that will be picked up by Dan Sorkin, who has an afternoon, a two hour afternoon show over the Synanon wire, which goes to all Synanon plants five days a week. And I count on--I consciously direct an awful lot of information and direction that I want to get out into the Synanon population, I direct it through his show. (Emphasis added)

(XI, p. 134-135.)

(XII, p. 17; XI, pp. 137-139, 141.) The Think Table Topic summaries were usually posted in a prominent place at each Synanon facility. (XI, pp. 137-139, 141.)

Those Think Table Topic Summaries contained in Government Exhibit Volume II were seized from Dederich at the time of his arrest for the rattlesnake attack on Attorney Morantz. With respect to violence, some of Dederich's statements which are contained in the Think Table Topic Summaries seized from him are as follows:

Holy War: CED [Dederich] intends to destroy attorney Morantz and he doesn't care who knows it.

(II. at 27.)

Militancy: Why hesitate and break someone's legs if he keeps annoying us.

(Id. at 11.)

The Holy War: As our Holy War with Tulare County and the State Board of Health continues, CED is awaiting the sound of cracking bone.

(Id. at 30.)

Militant Religion: We are taking an aggressive militant posture. It will both decimate Synanon's population and then attract lots of people who are looking for a militant religion. "Don't fuck with Synanon" is the new religious posture.

(Id. at 51.)

Guns and Security: We will probably begin to arm people openly and develop our own police force. One of our current obsessions is violence and taking aggressive action.

(Id. at 70.)

Times Are Changing: We are preparing for militancy; we have the Imperial Marines and we carry guns.

(Id. at 55.)

Immediately after Dederich was arrested, representatives of Synanon's law department were dispatched to collect for the legal department all Think Table Topic Summaries remaining in the Foundation. (XII, p. 26-27, 34.) Synanon has failed to produce to litigants these other Think Table Summaries. The Government is here seeking all Think Table Topic Summaries not contained in Government Exhibit Volume II and any and all transcripts of those Think Tables. 8/

2. Board Minutes

Synanon kept two different sets of Board Minutes. See Government Exhibit Volume IV. There was a pro-forma set of minutes, which was maintained for distribution to the Internal Revenue Service and other authorities. (Id. at 104-142.) In addition, Synanon kept extensive minutes of what really occurred at Board Meetings. (Id. at 1-103.) These real minutes of Synanon's Board Meetings contained in Government Exhibit Volume IV were seized by the Los Angeles Police Department from some of Synanon's executives and officials. The Government is here seeking an order requiring Synanon to produce all of its other real minutes for its fiscal years 1977 and 1978.

8/ Synanon's law department also oversaw the destruction and secreting of incriminating Think Table tape recordings. See, infra at 26-30.

The real minutes seized from Synanon detail some of its unlawful acts. For example, with reference to Synanon's beating of former resident Tom Cardineau (See Defendant's Statement, p. 96), the real minutes show that the Board of Directors supported the violent practices demonstrated in the Cardineau beating. The real minutes state:

TOM CARDINEAU

Jady [Dederich] mentioned Chris Benton talking about the Cardineau [sic] incident in a game last week and it was the first time he had had the opportunity to do so. He simply wanted to talk about it and the feelings surrounding the actual incident. He has an aggressive attitude about doing it again, think it's fine and would go to jail for Synanon but wanted to talk about the other hand in a game. There had not been game about this since it happened; we can never critique these things and improve on them. This one was not done properly. The guys involved then begin to think they have done something wrong and our aggressive posture wanes and they hesitate the next time. We have to keep being aggressive. Calling the police was also discussed. We have stopped this altogether. Perhaps there is a time to call them after we have taken our aggressive stand and then report it so it becomes a matter of record. Synanon is being attacked. Art Warfield and Buddy Jones should not have gotten involved in the Cardineau incident and Sheriff Mountanos has asked for their badges. Do we want to defend our guys legally each time one of these incidents happen (Cardineau pressed charges). Our Legal Department is strangling and maybe we can't afford to. Ron [Vice-President Ron Cook] said we have to defend our guys but we have to get the word out that Synanon people are crazy and if we get the word out properly, people will stop coming on our property.

We have to game about these incidents and let the guys talk about it and also to get the

information out so we can improve on them and do them properly.

(IV, p. 77-78.)

Synanon has represented to this Court that these real minutes are merely unauthorized notes taken by some participants at meetings and are not Synanon's own business records. (XI, pp. 161-162.) These allegations are flatly contradicted by Bette Fleishman and Naya Arbiter. (XII, pp. 18-19; 35-36.)

With respect to these real minutes, Bette Fleishman states:

The minutes of Synanon's meetings of its Board of Directors, and other minutes of various meetings held by members of Synanon's Board of Directors which are contained in Government Exhibit Volume IV at pp. 1-103, are true and accurate, and were maintained in the normal course of Synanon's business and are the official minutes of the organization.

During my residency in Synanon, I worked as an executive secretary to Larry Akey, and to Ed Seigel, who have been presidents of Synanon. As executive secretary to these men, one of my jobs was to receive mail and date stamp it prior to leaving it for them to read. Upon reading their mail, they would stamp it with their personal stamps and return it to me for filing. This was the procedure followed with Synanon's minutes of the type contained on pp. 1-103 of Government Exhibit Volume IV.

The above-described minutes of Synanon's Board of Directors were typed and usually received in the offices of each director within one or two days of the meetings, the proceedings of which they accurately reflected * * * [t]hese minutes were filed in chronological minute files maintained specifically for that purpose. These minute files were voluminous and were in existence in 1980 when I left Synanon.

(Id. at 18-19.)

Naya Arbiter also states that the real minutes are Synanon's business records and, when she was a resident of Synanon, the real minutes were treated as such. Her declaration states that:

During 1977 and 1978, Jady Dederich, Charles Dederich, Jr. and Ron Cook, all maintained in their offices files of Synanon minutes of the type contained in Government Exhibit Volume II, at pp. 1-103. Voluminous large ringbinders of these minutes were maintained by the directors or executives in their respective offices at Synanon.

(Id. at 36.)

3. The Robson Reports

Dr. Douglas Robson was the head of Synanon security and later the head of the Imperial Marines. His "incident reports" and monthly reports reveal in detail specific instances of Synanon's violence and illegality. Some of his reports state:

July, 1977

As the month progressed and I was personally involved in more and more confrontations, I have come to believe that if we maintain our aggressive posture in Santa Monica * * * we will soon get someone seriously hurt or killed. We are even getting fractures of our people hands from hitting other people in fights we win * * *.

(III, pp. 177-178.)

September, 1977

We have averaged more than one confrontation a week over the past several months. I believe it is our responsibility to do everything we can to insure that fights resulting from our present aggressive posture result in injuries to the people who insult and threaten us in our own house rather than to ourselves.

(Id. at 194.)

September, 1977

* * * Sending groups of Synanon people off property on missions which are physically dangerous and of questionable legality is extremely expensive and must be done when indicated using our very best equipment, thinking and personnel. We are very new at exercising our present aggressive posture. Many mistakes will be made in these activities and some people are certain to get hurt
* * *.

(Id. at 201-202.)

November, 1977

In the past month, we have been off the property five times from San Francisco to New York, and nailed four individuals who took things from us. * * * I want a tight investigation/action team * * *. There is no doubt that we are going to be involved in extremely dangerous, sensitive direct action in the near future.

(Id. at 351.)

December, 1977

This was the month of the hunt. Our investigations lead us to eight individuals who stole from, insulted, or harassed Synanon people. These efforts took us from coast to coast. The word seems to be getting out that when you leave Synanon, * * * you leave in debt. The debt can be paid back by various sorts of favors. People who do not acknowledge the debt or remain neutral when we are in need become our enemies and when we are annoyed it is not good to be our enemy.

(Id. at 357-358.)

The above Robson reports are only a portion of those that spell out Synanon's violent posture and activities and, therefore, Synanon should be required to produce all incident and monthly reports.

III

THE DESTRUCTION OF INCRIMINATING SUBPOENAED EVIDENCE AND THE FAILURE TO PRODUCE INCRIMINATING EVIDENCE

Synanon's bizarre and unlawful activities began to attract national publicity in 1977. In response to this, Synanon declared "Holy War." The Holy War was devised as an organized attack by the entire Synanon community on anyone who criticized Synanon in any way. In furtherance of its "Holy War," Synanon's law department conducted "legal terror" by filing multi-million dollar lawsuits against county and state officials, grand jurors and ordinary citizens who opposed or criticized Synanon in any way. Suits were also filed against the media and even attorneys representing parties engaged in litigation with Synanon.

Incredibly, at the very same time that Synanon was committing violent and other illegal acts, it was filing libel suits to prevent the media from informing the public about these and other Synanon activities. Synanon filed libel suits against, among others, Time, Inc., the San Francisco Examiner, Reader's Digest, ABC, NBC, Jack Anderson, Pulitzer Prize winning authors and many others.

Because evidence of violence and other unlawful acts so pervaded Synanon's tape-recorded conversations and its business records, the authorities and litigants involved in lawsuits against Synanon subpoenaed from Synanon, and otherwise sought the production from it, of the incriminating tape recordings and business records. (XII, p. 1.) In the face of having to make

this evidence available to its adversaries, Synanon's executives and officials, through the Synanon law department, undertook a systematic effort to destroy incriminating subpoenaed evidence and to hide other evidence. (Id.) In addition, various Synanon executives and officials suborned perjury and committed perjury. (Id.)

A. The Incident Reports On Violence Are Hidden

In anticipation of the violence to come, on September 7, 1977, two days after Dederich's "New Religious Posture" speech, Synanon attorney, Howard Garfield, wrote to Doug Robson, head of the Imperial Marines, regarding an agreement with the legal department that all existing and future written reports of incidents involving confrontations and violence be immediately turned over to the legal department. (III, p. 252.) As Robson explained in a September 13, 1977, memorandum to all Synanon facility directors, the incident reports--

[C]ontain evidence that could be used against our people and it is available in files kept * * * in various director's offices, where it could easily be taken and used against us.

(Id. at 259.) Robson instructed that the directors--

Send information about our responses to these incidents only to Howard Garfield. These reports in our legal files will be privileged.

(Id.) Pursuant to these instructions, on September 23, 1977, David Ross forwarded to attorney Garfield the incident reports pertaining to violence. (Id. at 271.) Thus, as early as September, 1977, the Synanon legal department, purportedly under

the auspices of the attorney-client privilege, embarked on an organized scheme to cover-up Synanon's involvement in violence.

On the night of Dederich's arrest, in early December, 1978, David Gilmour, who had been implicated in numerous acts of Synanon violence, went through Synanon's files with Bette Fleishman and pulled out some of Robson's incident reports detailing violent acts perpetrated by Synanon. (XII, pp. 8-9.) These incident reports were taken by Gilmour who told Bette Fleishman he was going to take care of them and wanted to talk to Chief Counsel Dan Garrett concerning them. (Id. at 9.)

B. The Gathering Of Incriminating
Tape-Recorded Evidence

In October of 1978, Imperial Marines Joseph Musico and Lance Kenton were arrested on charges of the attempted murder of Attorney Paul Morantz. (Id. at 7.) Immediately after the arrest of Musico and Kenton, Chief Counsel Dan Garrett flew from Synanon's facility in Lake Havasu City, Arizona, to Synanon's facility in Badger, California, where Garrett's office and the Synanon Archives were located. (Id. at 7.) Garrett then held a meeting in his office with Synanon attorneys, Archivist Steve Simon and with Dan Sorkin. (Id.) As a result of this meeting, Simon, Sorkin, Chris Haberman and David Benjamin gathered large quantities of tapes and spent the next two weeks in seclusion with these tapes in Sorkin's trailer at the Synanon Strip property in Badger. (Id.)

C. The November 21, 1978 Raid Of Home Place
By The Los Angeles Police Department--
The Destruction Of The Synanon "Hit List"

On November 21, 1978, the Los Angeles Police Department executed a search warrant at Home Place in Badger, California. During the course of that police raid, Walter Lewbel, Dederich's executive assistant, removed a copy of the Synanon "hit list" from a safe at Home Place and burned it in a fireplace. (Id. at 8.)

At the time of the raid, the police seized the copies of Synanon's real minutes, which are contained in Government Exhibit Volume IV at page 1-103. (Id. at 18.) Also, the police seized a cassette tape of Dederich's "New Religious Posture" speech which had been excerpted from a reel-to-reel tape recording of a Dederich Think Table of September 5, 1977. (Id. at 7.)

D. Dan Sorkin's And Steve Simon's Transportation
Of Tapes Out Of The State Of California

A day or two after the November 21, 1978 raid, Dan Sorkin and Steve Simon flew out of California with box loads of Synanon tapes and transported these tapes to a Synanon facility in New York. (Id. at 8.) Thereafter, on a number of occasions, Sorkin and/or Simon transported other box loads of Synanon tapes to points outside of California, and at least once to Lake Havasu, Arizona. (Id.) On one such occasion, Bette Fleishman met Sorkin at 10:00 P.M. in a parking lot at the Home Place returning from such a trip. (Id.) At this time Sorkin asked Fleishman not to mention that she had seen him. (Id.)

The Government is by this motion seeking production of all the Synanon tape recordings transported out of California by Sorkin, Simon or any other person.

E. The Arrest Of Charles E. Dederich

In early December, 1978, Dederich was arrested by the Los Angeles Police in Lake Havasu City, Arizona, for soliciting the murder of Attorney Paul Morantz. (Id.) At the time of his arrest, the Think Table Topic Summaries which are contained in Government Exhibit Volume II were seized from Dederich.

After Dederich's arrest, Steve Simon tried to collect all Think Tape Topic Summaries, Think Table transcripts, as well as any and all tape recordings located anywhere in the Foundation so that this evidence could not be used against Dederich. (Id.)

F. The Destruction And Secreting Of Evidence

1. The Destruction Project

By the beginning of 1980, Synanon's lawsuits were still pending against Time, Inc., ABC, Attorney Paul Morantz and many others. Also, the criminal proceedings against Dederich, Musico and Kenton for the rattlesnake attack on Attorney Paul Morantz had not yet been resolved. (Id. at 10.) In order to prevent the authorities and the public from learning about Synanon's violent and illegal acts, during the course of these legal proceedings Synanon systematically destroyed subpoenaed evidence. (Id. at 1, 10.)

In February or March, 1980, Synanon Archivist Steve Simon asked Bette Fleishman to work for him in the Synanon Archives since he said she was the only one he trusted in the entire Foundation to do the work that had to be done. (Id. at 9-10.) Immediately upon commencement of her work for Simon, and at his direction, Fleishman became actively involved in the destruction of subpoenaed tape-recorded evidence. (Id. at 10.)

The procedures established by Synanon to destroy the subpoenaed evidence contained in its Archives were as follows:

- a. Simon would receive information from the Synanon legal department concerning materials sought by litigants from Synanon.
- b. On more than one occasion, after Simon received such requests from the legal department, he stated to Fleishman "I have to talk with Phil [Bourdette] about this." Bourdette was then, as now, the attorney in charge of the Synanon legal department.
- c. Thereafter, Simon would collect all the responsive tape-recordings and the original written topical logs of the contents of the recordings (made at the time of the recording) and put these tapes and logs on a shelf to be reviewed by Fleishman and Simon. These original topical logs assisted Simon and Fleishman in locating the most sensitive, that is, the most incriminating, tapes.
- d. Prior to Fleishman's review of any tape recording, Simon would deliver to her a sensitive subject list specifying those subject matters she was to listen for. The sensitive subject list always included violence and any topic at all incriminating; specifically, Charles E. Dederich talking about these subjects.
- e. Fleishman's job in reviewing these sensitive subpoenaed tapes was to prepare exhaustive logs of the matters appearing on the sensitive subject list for use and review by Simon.

f. These detailed logs which she prepared, the original topical logs and the associated tape-recordings were then delivered to Simon.

g. Simon would thereafter review with Miriam Bourdette, attorney Phil Bourdette's wife and an employee of the Synanon legal department, Fleishman's detailed logs as well as detailed sensitive subject logs prepared by Simon. Miriam Bourdette and Simon would then decide what subpoenaed evidence should be destroyed.

h. When Simon and Miriam Bourdette decided that a particular tape should be erased, Simon would remove the label from the tape and burn the label as well as burn the original topical logs. Simon would then order Fleishman to erase the tape, which she did, or, alternatively, he would erase the tape himself. For example, at Miriam Bourdette's direction Fleishman erased a Think Table tape in which Dederich stated that Joseph Musico would be a great guy to go out and hurt someone. Fleishman also spoke with Steve Simon about erasing this tape.

i. During this period Fleishman had numerous conversations with Miriam Bourdette concerning the destruction of subpoenaed evidence. Miriam Bourdette repeatedly said that it was too bad that Synanon had to erase the evidence, but that it was the only way out. She also told Fleishman that she had no reluctance in destroying the evidence.

j. Fleishman's participation in the tape erasure project continued from February or March, 1980, through August of 1980. She often worked 18 hours per day on this project with Simon. Additionally, the Archives at times had 16-17 volunteers preparing detailed logs of subpoenaed tapes considered by Simon to contain damaging but less sensitive information than the tapes she and Simon were logging.

k. As Fleishman's participation in the evidence destruction project progressed, Simon delegated more responsibility to her. Eventually, he directed her to remove the labels from the tapes and to burn the labels and then erase the tapes. Pursuant to his direction, she did this. Simon, however, continued to have responsibility for destroying the tape logs. However, she did burn a few logs at his direction.

l. During the tape erasure project, ABC, Inc. served an interrogatory on Synanon asking it to detail the procedures involved in erasing or "recycling" tapes. This interrogatory made Simon very nervous. Simon discussed the interrogatory with Fleishman and she told him that she did not want her name on the interrogatory answer because she would not perjure herself. Thereafter, Simon spent a morning with Miriam Bourdette at the Home Place preparing an answer to the interrogatory. When Miriam Bourdette and Simon were done, Fleishman asked Simon if he had answered all the questions. To this Simon responded by saying "yes" and rolling his eyes.

m. During Fleishman's work on the tape erasure project, Michelle Albano Benjamin, personal secretary to Chuck Dederich and the wife of Synanon attorney David Benjamin, came into a room in the Synanon Archives where Simon and Fleishman were working and said something about erasing tapes. Simon's face went white. After Michelle Albano Benjamin left the room Simon turned to Fleishman and said, "God, she's stupid. I have to tell her to shut up."

(Id. at 10-13.)

2. The Scheme To Hide Subpoenaed Evidence

In addition to the destruction of evidence, other subpoenaed evidence was hidden by Synanon. (Id. at 13.) Simon wanted to preserve certain of the subpoenaed incriminating tapes. (Id. at 14.) Rather than destroying these tapes, they were relabeled

in such a way as to fall outside the scope of the subpoenaed evidence. (Id.)

The procedure Simon followed was to rip the original labels off the subpoenaed tapes and to relabel them with innocuous titles. (Id.) The old labels were burned by Simon or by Bette Fleishman at Simon's direction. (Id.) Simon came up with the new title for each relabeled tape. (Id.) He knows where all the relabeled tapes are. (Id.) Simon also knows how each tape was being relabeled to avoid subpoena and document production requests. (Id.)

An example of the relabeling of tapes that took place was the relabeling of certain 1978 Formia, Italy, Game tapes which graphically discussed violence and other incriminating activities engaged in by Synanon. (Id.) These tapes were relabeled "The Great Conversation" after ABC sought production of the Formia Game tapes. (Id.)

G. Simon's Admission Of Perjury
And The Synanon Law Department's
Suborning Of That Perjury

On August 29 or 30, 1980, Bette Fleishman had a three-hour conversation with Steve Simon at his office at the Synanon Archives. (Id.) During this conversation, Simon admitted to Fleishman that the evidence destruction project was even more carefully coordinated than Fleishman had previously known. (Id.) Specifically, Simon admitted to Fleishman the following:

- a. That Simon had perjured himself several times under oath; and

b. That Simon had perjured himself in his deposition in Synanon v. ABC, Inc. and that he had perjured himself in proceedings involving attorney Paul Morantz. Simon admitted to Fleishman that before his testimony in each matter he had conferred with Synanon attorney Philip Bourdette, and that it was agreed by them that Simon had to lie "to cover their ass."

(Id. at 14-15.)

ARGUMENT

I

SYNANON SHOULD BE ORDERED TO PRODUCE ALL INCRIMINATING EVIDENCE

A. The Bob Jones University Decision

In its Statement of Material Facts filed in support of its Motion for Summary Judgment on March 11, 1983, the Government, on the basis of Synanon's own business records, detailed many of Synanon's violent and illegal acts. Since the filing of that Motion for Summary Judgment, the Supreme Court has decided Bob Jones University v. United States, 51 U.S.L.W. 4593 (May 24, 1983). By virtue of this decision, it is now firmly established that an organization seeking the support and subsidy of the American public through a federal tax exemption must satisfy not only the criteria for tax-exempt status expressly set forth in Code Section 501(c)(3), but, in addition, the organization's operations must also confer a benefit on the public. In Bob Jones University, the Supreme Court expressed this requirement as follows:

When the Government grants exemptions or allows deductions all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can

be said to be indirect and vicarious "donors." Charitable exemptions are justified on the basis that the exempt entity confers a public benefit--a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues. History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest. The institution's purpose must not be so at odds with the common community conscience as to undermine any public benefit that might otherwise be conferred. (Emphasis added.)

Bob Jones University v. United States, supra at 4599. The Supreme Court stated further that an entity seeking tax-exempt status may not engage in any illegal activities whatsoever since--

A corollary to the public benefit principle is the requirement, long recognized in the law of trusts, that the purpose of a charitable trust may not be illegal or violate established public policy. (Emphasis added.)

Bob Jones University v. United States, supra at 4599.

B. The Bob Jones University Decision Entitles The United States To Summary Judgment

Since filing its Motion for Summary Judgment, the United States has learned, through the testimony of Bette Fleishman, Rodney Mullen and Naya Arbiter, of even more extensive illegal activities of Synanon and of the efforts of Synanon's law department and other Synanon executives to cover-up those illegal activities through the destruction of evidence, suborning of perjury and the commission of perjury.

The Government, in its Reply to Synanon's Opposition to its Motion for Summary Judgment, has set forth why, on the basis of the facts contained in its Statement of Material Facts and in the affidavits filed herewith, it is entitled to summary judgment on the grounds of public policy.

C. Since The Destroyed And Hidden Incriminating Evidence Would Show Synanon's Violation Of Public Policy, Synanon Should Be Required To Produce The Same

The evidence destroyed or hidden by Synanon would show that there exists no genuine issue of disputed fact and would also conclusively demonstrate that, during the years before the Court, Synanon was a violent and militaristic cult dedicated to enriching its elite and attacking its perceived enemies.

Synanon has systematically destroyed incriminating evidence in the past. Given the same opportunity here, we know of no reason why Synanon's carefully programmed effort to cover-up its illegal activities would not continue absent an immediate order from this Court requiring the production of this evidence and a full accounting by Synanon of the evidence it has to date destroyed.

Indeed, Synanon's principal affiants in support of its Opposition to the Government's Motion for Summary Judgment, are none other than Dederich, Steve Simon, Synanon resident attorney Phil Bourdette and his wife, Miriam Bourdette, all of whom either directed Synanon's acts of violence, collaborated in the destruction of subpoenaed incriminating evidence, suborned perjury or committed perjury. Dederich, in his affidavit, has gone so far as to deny that there was any basis for the Los Angeles Superior Court

accepting his nolo contendere plea in the Morantz rattlesnake attack case.

Under these truly extraordinary circumstances, we respectfully submit that the interests of justice require that the Court order Synanon to immediately produce the following evidence so carefully concealed from the public and from the authorities in the past:

1. All minutes of meetings of Synanon's Board of Directors or minutes of its Executive Committee or Foundation Business meetings in the form contained on pages 1-103 of Government Exhibit Volume IV.

2. All Think Table Topic Summaries other than those seized from Dederich at the time of his arrest and which are contained in Government Exhibit Volume II.

3. All those many boxes of Synanon tape recordings of Synanon's executives and officials transported by Sorkin, Simon or any other person out of the State of California beginning in the Fall of 1978.

4. All those tape recordings which Synanon changed the label of, rather than destroy, together with a record of the former and current labels of each such recording. This includes, but is by no means limited to, the Formia game tapes, all or a portion of which are now relabeled "The Great Conversation."

5. A complete and detailed record and accounting of all tape recordings and related documents and records destroyed or altered by Synanon, together with a full description of the contents of those tapes and the events that they record. This includes, but by no means is limited to, the sensitive subject lists and sensitive subject logs described by Bette Fleishman in her declaration.

6. All of Robson's "incident reports" and monthly reports and any other similar reports.

7. All tape recordings, logs, and other records of the August 28, 1978 game where Dederich ordered Percy Tickles to attack attorney Morantz.

8. All tape recordings, logs, and other records of the September, 1978 Board game where Dederich ordered that Attorney Paul Morantz be "taken care of" and ordered that former Synanon resident Phil Ritter be "taken care of."

Any lingering doubt as to the true nature of Synanon's non-exempt activities would obviously vanish if Synanon is required to produce the above evidence. Indeed, why else did Synanon executives and officials carefully destroy and/or hide this evidence but for the fact that it details the organization's illegal non-tax-exempt activities?

II

IF SYNANON FAILS TO COMPLY WITH
ANY PRODUCTION ORDER OF THIS COURT,
ITS COMPLAINT SHOULD BE DISMISSED
WITH PREJUDICE

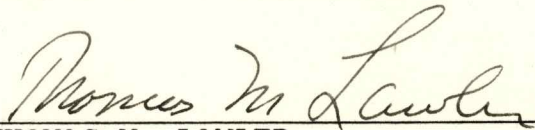
As stated above and in greater detail in the Government's Reply to Synanon's Opposition Memorandum, an organization is not entitled to tax-exempt status if it violates public policy or engages in any illegal activities. Accordingly, if this Court orders Synanon to produce any of the above evidence and Synanon thereafter fails for any reason to comply with the Court's order and fails to produce all such evidence, Synanon's complaint should be dismissed, on the merits and with prejudice, on public

policy grounds. See Bob Jones University v. United States,
supra.

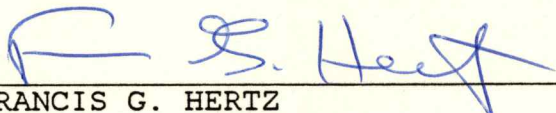
CONCLUSION

For all the foregoing reasons, Synanon should be ordered to immediately produce all the above records or, failing to do so, its complaint should be dismissed, on the merits, with prejudice.

Respectfully submitted,



THOMAS M. LAWLER



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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that the foregoing Motion Of The United States For An Order Requiring Synanon To Immediately Produce All Information Concerning Destroyed And Hidden Subpoenaed Materials Detailing Synanon's Illegal Acts, Or, In The Alternative, For An Order Dismissing The Complaint On The Merits, Memorandum Of Law For The United States In Support Of Its Motion, and proposed Order were this 11th day of July, 1983, hand-delivered to:

SCHERR, KREBBS & GITNER
Suite 610
1800 K Street, N.W.
Washington, D.C. 20006

Thomas M. Lawler by *Foot*
THOMAS M. LAWLER